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Chief Clerk of the House

FILED APR 22 2003

By: Chuck Hapson

H.B. No. 3601

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties,  
operation, and financing of the Houston County Groundwater  
Conservation District.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. DEFINITIONS. In this Act:

(1) "Board" means the board of directors of the  
Houston County Groundwater Conservation District.

(2) "Designated management area" means an area  
designated as a management area under Section 35.004, Water Code.

(3) "Director" means a member of the board.

(4) "District" means the Houston County Groundwater  
Conservation District.

SECTION 2. CREATION. (a) A groundwater conservation  
district, to be known as the Houston County Groundwater  
Conservation District, is created in Houston County, subject to  
approval at a confirmation election under Section 10 of this Act.

(b) The district is a governmental agency and a political  
subdivision of this state.

SECTION 3. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The  
district is created to serve a public use and benefit.

(b) The district is created under and is essential to  
accomplish the purposes of Section 59, Article XVI, Texas  
Constitution.

1 (c) The district is created to:

2 (1) provide for the protection, recharging, and  
3 prevention of waste of groundwater in the Houston County area;

4 (2) control subsidence caused by the withdrawal of  
5 water from the groundwater reservoirs in that area; and

6 (3) regulate the transport of groundwater out of the  
7 boundaries of the district.

8 (d) All of the land and other property included within the  
9 boundaries of the district will be benefited by the works and  
10 projects that are to be accomplished by the district under powers  
11 conferred by Section 59, Article XVI, Texas Constitution.

12 SECTION 4. BOUNDARIES. The boundaries of the district are  
13 coextensive with the boundaries of Houston County, Texas.

14 SECTION 5. APPLICABILITY OF OTHER LAW. This Act prevails  
15 over any provision of general law that is in conflict or  
16 inconsistent with this Act, including any provision of Chapter 36,  
17 Water Code.

18 SECTION 6. BOARD OF DIRECTORS. (a) The district is governed  
19 by a board of nine directors.

20 (b) Temporary directors are appointed under Section 7 of  
21 this Act and serve until initial directors are elected under  
22 Section 10 of this Act.

23 (c) Four of the initial directors serve until the first  
24 election of permanent directors under Section 11 of this Act. Five  
25 of the initial directors serve until the second election of  
26 permanent directors under Section 11 of this Act.

27 (d) Permanent directors serve staggered four-year terms.

1           (e) Each director, including temporary directors, must  
2     qualify to serve as director in the manner provided by Section  
3     36.055, Water Code.

4           (f) A director may serve consecutive terms.

5           (g) If there is a vacancy in the office of temporary  
6     director, the Houston County Commissioners Court shall appoint a  
7     person to fill the vacancy in accordance with the appointment  
8     method under Section 7 of this Act.

9           (h) A director is entitled to receive fees of office of not  
10    more than \$50 a day for each day the director actually spends  
11    performing the duties of a director. The fees of office may not  
12    exceed \$3,000 a year.

13          (i) The board may authorize a director to receive  
14    reimbursement for the director's reasonable expenses incurred  
15    while engaging in activities on behalf of the board.

16          (j) A majority vote of a quorum is required for board  
17    action. If there is a tie vote, the proposed action fails.

18          SECTION 7. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Not  
19    later than the 45th day after the effective date of this Act:

20               (1) the Houston County Commissioners Court shall  
21    appoint two temporary directors from each of the four commissioners  
22    precincts to represent the precincts in which they reside; and

23               (2) the county judge of Houston County shall appoint  
24    one temporary director who resides in the district to represent the  
25    district at large.

26          (b) At least one of the temporary directors must represent  
27    the interests of rural water suppliers in the district, and one of

1 the temporary directors must represent agricultural interests in  
2 the district.

3 SECTION 8. ORGANIZATIONAL MEETING. As soon as practicable  
4 after all the temporary directors have qualified according to  
5 Section 6(e) of this Act, a majority of the temporary directors  
6 shall convene the organizational meeting of the district at a  
7 location within the district agreeable to a majority of the  
8 directors. If no location can be agreed upon, the organizational  
9 meeting shall be at the Houston County Courthouse.

10 SECTION 9. METHOD OF ELECTING DIRECTORS: COMMISSIONERS  
11 PRECINCTS. (a) The directors of the district shall be elected  
12 according to the commissioners precinct method as provided by this  
13 section.

14 (b) One director shall be elected by the voters of the  
15 entire district, and two directors shall be elected from each  
16 county commissioners precinct by the voters of that precinct.

17 (c) Except as provided by Subsection (e) of this section, to  
18 be eligible to be a candidate for or to serve as director at large, a  
19 person must be a registered voter in the district. To be a  
20 candidate for or to serve as director from a county commissioners  
21 precinct, a person must be a registered voter of that precinct.

22 (d) A person shall indicate on the application for a place  
23 on the ballot:

24 (1) the precinct that the person seeks to represent;  
25 or

26 (2) that the person seeks to represent the district at  
27 large.



1           (e) When the boundaries of the county commissioners  
2 precincts are redrawn after each federal decennial census to  
3 reflect population changes, a director in office on the effective  
4 date of the change, or a director elected or appointed before the  
5 effective date of the change whose term of office begins on or after  
6 the effective date of the change, shall serve in the precinct to  
7 which elected or appointed even though the change in boundaries  
8 places the person's residence outside the precinct for which the  
9 person was elected or appointed.

10           SECTION 10. CONFIRMATION AND INITIAL DIRECTORS' ELECTION.

11       (a) The temporary directors shall call and hold an election to  
12 confirm the creation of the district.

13       (b) At the confirmation and initial directors' election,  
14 the temporary directors shall have placed on the ballot the name of  
15 any candidate filing for an initial director's position and blank  
16 spaces to write in the names of other persons. A temporary director  
17 who is eligible to be a candidate under Section 9 of this Act may  
18 file for a position as an initial director.

19       (c) Section 41.001(a), Election Code, does not apply to a  
20 confirmation and initial directors' election held as provided by  
21 this section.

22       (d) Except as provided by this section, a confirmation and  
23 initial directors' election must be conducted as provided by  
24 Sections 36.017(b)-(i), Water Code, and the Election Code.

25       (e) The two initial directors elected to represent each  
26 commissioners precinct shall draw lots to decide which of the two  
27 directors shall serve a term lasting until the first regularly

1 scheduled election of directors under Section 11 of this Act, and  
2 which of the two directors shall serve until the second regularly  
3 scheduled election of directors. The at-large director shall serve  
4 until the second regularly scheduled election of directors.

5 (f) If the establishment of the district is not confirmed at  
6 an election held under this section before September 1, 2005, the  
7 district is dissolved, except that:

8 (1) any debts incurred shall be paid;

9 (2) any assets that remain after the payment of debts  
10 shall be transferred to Houston County; and

11 (3) the organization of the district shall be  
12 maintained until all debts are paid and remaining assets are  
13 transferred.

14 SECTION 11. ELECTION OF DIRECTORS. (a) On the first  
15 Saturday in May of the first even-numbered year after the year in  
16 which the district is authorized to be created at a confirmation  
17 election, an election shall be held in the district for the election  
18 of four directors for the positions held by the four initial  
19 directors serving shorter terms from the confirmation election.

20 (b) On the first Saturday in May of each subsequent  
21 even-numbered year following the election, the appropriate number  
22 of directors shall be elected.

23 SECTION 12. GENERAL POWERS. Except as otherwise provided  
24 by this Act, the district has all of the rights, powers, privileges,  
25 authority, functions, and duties provided by the general law of  
26 this state, including Chapter 36, Water Code, applicable to  
27 groundwater conservation districts created under Section 59,

1 Article XVI, Texas Constitution.

2 SECTION 13. LIMITATION ON TAXATION. The district may not  
3 impose an ad valorem tax at a rate that exceeds three cents on each  
4 \$100 of assessed valuation of taxable property in the district.

5 SECTION 14. FEES. (a) The board may by rule impose  
6 reasonable fees on each well:

7 (1) for which a permit is issued by the district; and

8 (2) that is not exempt from district regulation.

9 (b) A production fee may be based on:

10 (1) the size of column pipe used by the well; or

11 (2) the amount of water actually withdrawn from the  
12 well, or the amount authorized or anticipated to be withdrawn.

13 (c) The board shall base the initial production fee on the  
14 criteria listed in Subsection (b)(2) of this section. The initial  
15 production fee:

16 (1) may not exceed:

17 (A) \$0.25 per acre-foot for water used for  
18 agricultural irrigation; or

19 (B) \$0.0425 per thousand gallons for water used  
20 for any other purpose; and

21 (2) may be increased at a cumulative rate not to exceed  
22 three percent per year.

23 (d) In addition to the production fee authorized under this  
24 section, the district may assess an export fee on groundwater from a  
25 well that is produced for transport outside the district.

26 (e) Fees authorized by this section may be:

27 (1) assessed annually; and

1           (2)   used to pay the cost of district operations.

2           SECTION 15. GROUNDWATER WELLS UNDER RAILROAD COMMISSION  
3 JURISDICTION.   (a)   Except as provided by this section, a  
4 groundwater well drilled or operated within the district under a  
5 permit issued by the Railroad Commission of Texas is under the  
6 exclusive jurisdiction of the railroad commission and is exempt  
7 from regulation by the district.

8           (b)   Groundwater produced in an amount authorized by a  
9 railroad commission permit may be used within or exported from the  
10 district without a permit from the district.

11          (c)   To the extent groundwater is produced in excess of  
12 railroad commission authorization, the holder of the railroad  
13 commission permit:

14               (1)   shall apply to the district for the appropriate  
15 permit for the excess production; and

16               (2)   is subject to the applicable regulatory fees.

17          (d)   The district may impose a production fee or an export  
18 fee on groundwater produced from a well that was drilled to support  
19 mining activities and that is otherwise exempt from regulation by  
20 the district under Subsection (a) of this section if that  
21 groundwater is used for municipal purposes or by a public utility.  
22 Any fee imposed under this subsection may not exceed the fee imposed  
23 on other groundwater producers in the district.

24          SECTION 16. EXEMPTION FROM FEES. (a) Except as provided by  
25 Subsection (b) of this section, the district may not assess a fee on  
26 a well drilled by a nonprofit rural water supply corporation, water  
27 district, or other political subdivision if the well's production

1 is for use within the district.

2 (b) The district by emergency order of the board may impose  
3 a reasonable and temporary production fee on a well described by  
4 Subsection (a) of this section if:

5 (1) severe drought or other district emergency makes  
6 the fee necessary; and

7 (2) the term of the order does not exceed 180 days.

8 SECTION 17. EXEMPTION FROM PERMIT REQUIREMENTS. (a)  
9 Except as provided by Subsection (b) of this section or by Section  
10 15(c) of this Act, the district may not require a permit for a well  
11 completed before the date on which the district is confirmed under  
12 Section 10 of this Act.

13 (b) The district may require a permit for a well otherwise  
14 exempt under Subsection (a) of this section if:

15 (1) the well is altered in order to increase the amount  
16 of production from the well; and

17 (2) the alteration occurs on or after the date on which  
18 the district is confirmed under Section 10 of this Act.

19 SECTION 18. LIMITATION ON INDEBTEDNESS. The district may  
20 issue bonds and notes under Subchapter F, Chapter 36, Water Code,  
21 except that the total indebtedness created by that issuance may not  
22 exceed \$500,000 at any time.

23 SECTION 19. PROHIBITION ON DISTRICT PURCHASE, SALE,  
24 TRANSPORT, OR DISTRIBUTION OF WATER. The district may not  
25 purchase, sell, transport, or distribute surface water or  
26 groundwater for any purpose.

27 SECTION 20. PROHIBITION ON DISTRICT USE OF EMINENT DOMAIN

1 POWERS. The district may not exercise the power of eminent domain  
2 under Section 36.105, Water Code.

3 SECTION 21. REGIONAL COOPERATION. To provide for regional  
4 continuity, the district shall:

5 (1) participate as needed in coordination meetings  
6 with other groundwater districts in its designated management area;

7 (2) coordinate the collection of data with other  
8 groundwater conservation districts in its designated management  
9 area in such a way as to achieve relative uniformity of data type  
10 and quality;

11 (3) coordinate efforts to monitor water quality with  
12 other groundwater conservation districts in its designated  
13 management area, local governments, and state agencies;

14 (4) provide groundwater level data to other  
15 groundwater conservation districts in its designated management  
16 area;

17 (5) investigate any groundwater or aquifer pollution  
18 with the intention of locating its source;

19 (6) notify other groundwater conservation districts  
20 in its designated management area and all appropriate agencies of  
21 any groundwater pollution detected;

22 (7) annually provide to other groundwater  
23 conservation districts in its designated management area an  
24 inventory of water wells and an estimate of groundwater production  
25 within the district; and

26 (8) include other groundwater conservation districts  
27 in its designated management area on the mailing lists for district

1 newsletters, seminars, public education events, news articles, and  
2 field days.

3 SECTION 22. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.

4 (a) The legal notice of the intention to introduce this Act,  
5 setting forth the general substance of this Act, has been published  
6 as provided by law, and the notice and a copy of this Act have been  
7 furnished to all persons, agencies, officials, or entities to which  
8 they are required to be furnished under Section 59, Article XVI,  
9 Texas Constitution, and Chapter 313, Government Code.

10 (b) The governor has submitted the notice and Act to the  
11 Texas Commission on Environmental Quality.

12 (c) The Texas Commission on Environmental Quality has filed  
13 its recommendations relating to this Act with the governor,  
14 lieutenant governor, and speaker of the house of representatives  
15 within the required time.

16 (d) All requirements of the constitution and laws of this  
17 state and the rules and procedures of the legislature with respect  
18 to the notice, introduction, and passage of this Act are fulfilled  
19 and accomplished.

20 SECTION 23. EFFECTIVE DATE; EXPIRATION DATE. (a) This Act  
21 takes effect September 1, 2003.

22 (b) If the creation of the district is not confirmed at a  
23 confirmation election held under Section 10 of this Act before  
24 September 1, 2005, this Act expires on that date.

By:

Chuck Hopson

H.B. No. 3401

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, operation, and financing of the Houston County Groundwater Conservation District.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. DEFINITIONS. In this Act:

(1) "Board" means the board of directors of the Houston County Groundwater Conservation District.

(2) "Designated management area" means an area designated as a management area under Section 35.004, Water Code.

(3) "Director" means a member of the board.

(4) "District" means the Houston County Groundwater Conservation District.

SECTION 2. CREATION. (a) A groundwater conservation district, to be known as the Houston County Groundwater Conservation District, is created in Houston County, subject to approval at a confirmation election under Section 10 of this Act.

(b) The district is a governmental agency and a political subdivision of this state.

SECTION 3. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) The district is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.



1 (c) The district is created to:

2 (1) provide for the protection, recharging, and  
3 prevention of waste of groundwater in the Houston County area;

4 (2) control subsidence caused by the withdrawal of  
5 water from the groundwater reservoirs in that area; and

6 (3) regulate the transport of groundwater out of the  
7 boundaries of the district.

8 (d) All of the land and other property included within the  
9 boundaries of the district will be benefited by the works and  
10 projects that are to be accomplished by the district under powers  
11 conferred by Section 59, Article XVI, Texas Constitution.

12 SECTION 4. BOUNDARIES. The boundaries of the district are  
13 coextensive with the boundaries of Houston County, Texas.

14 SECTION 5. APPLICABILITY OF OTHER LAW. This Act prevails  
15 over any provision of general law that is in conflict or  
16 inconsistent with this Act, including any provision of Chapter 36,  
17 Water Code.

18 SECTION 6. BOARD OF DIRECTORS. (a) The district is governed  
19 by a board of nine directors.

20 (b) Temporary directors are appointed under Section 7 of  
21 this Act and serve until initial directors are elected under  
22 Section 10 of this Act.

23 (c) Four of the initial directors serve until the first  
24 election of permanent directors under Section 11 of this Act. Five  
25 of the initial directors serve until the second election of  
26 permanent directors under Section 11 of this Act.

27 (d) Permanent directors serve staggered four-year terms.

1 (e) Each director, including temporary directors, must  
2 qualify to serve as director in the manner provided by Section  
3 36.055, Water Code.

4 (f) A director may serve consecutive terms.

5 (g) If there is a vacancy in the office of temporary  
6 director, the Houston County Commissioners Court shall appoint a  
7 person to fill the vacancy in accordance with the appointment  
8 method under Section 7 of this Act.

9 (h) A director is entitled to receive fees of office of not  
10 more than \$50 a day for each day the director actually spends  
11 performing the duties of a director. The fees of office may not  
12 exceed \$3,000 a year.

13 (i) The board may authorize a director to receive  
14 reimbursement for the director's reasonable expenses incurred  
15 while engaging in activities on behalf of the board.

16 (j) A majority vote of a quorum is required for board  
17 action. If there is a tie vote, the proposed action fails.

18 SECTION 7. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Not  
19 later than the 45th day after the effective date of this Act:

20 (1) the Houston County Commissioners Court shall  
21 appoint two temporary directors from each of the four commissioners  
22 precincts to represent the precincts in which they reside; and

23 (2) the county judge of Houston County shall appoint  
24 one temporary director who resides in the district to represent the  
25 district at large.

26 (b) At least one of the temporary directors must represent  
27 the interests of rural water suppliers in the district, and one of

1 the temporary directors must represent agricultural interests in  
2 the district.

3 SECTION 8. ORGANIZATIONAL MEETING. As soon as practicable  
4 after all the temporary directors have qualified according to  
5 Section 6(e) of this Act, a majority of the temporary directors  
6 shall convene the organizational meeting of the district at a  
7 location within the district agreeable to a majority of the  
8 directors. If no location can be agreed upon, the organizational  
9 meeting shall be at the Houston County Courthouse.

10 SECTION 9. METHOD OF ELECTING DIRECTORS: COMMISSIONERS  
11 PRECINCTS. (a) The directors of the district shall be elected  
12 according to the commissioners precinct method as provided by this  
13 section.

14 (b) One director shall be elected by the voters of the  
15 entire district, and two directors shall be elected from each  
16 county commissioners precinct by the voters of that precinct.

17 (c) Except as provided by Subsection (e) of this section, to  
18 be eligible to be a candidate for or to serve as director at large, a  
19 person must be a registered voter in the district. To be a  
20 candidate for or to serve as director from a county commissioners  
21 precinct, a person must be a registered voter of that precinct.

22 (d) A person shall indicate on the application for a place  
23 on the ballot:

24 (1) the precinct that the person seeks to represent;  
25 or

26 (2) that the person seeks to represent the district at  
27 large.

1 (e) When the boundaries of the county commissioners  
2 precincts are redrawn after each federal decennial census to  
3 reflect population changes, a director in office on the effective  
4 date of the change, or a director elected or appointed before the  
5 effective date of the change whose term of office begins on or after  
6 the effective date of the change, shall serve in the precinct to  
7 which elected or appointed even though the change in boundaries  
8 places the person's residence outside the precinct for which the  
9 person was elected or appointed.

10 SECTION 10. CONFIRMATION AND INITIAL DIRECTORS' ELECTION.

11 (a) The temporary directors shall call and hold an election to  
12 confirm the creation of the district.

13 (b) At the confirmation and initial directors' election,  
14 the temporary directors shall have placed on the ballot the name of  
15 any candidate filing for an initial director's position and blank  
16 spaces to write in the names of other persons. A temporary director  
17 who is eligible to be a candidate under Section 9 of this Act may  
18 file for a position as an initial director.

19 (c) Section 41.001(a), Election Code, does not apply to a  
20 confirmation and initial directors' election held as provided by  
21 this section.

22 (d) Except as provided by this section, a confirmation and  
23 initial directors' election must be conducted as provided by  
24 Sections 36.017(b)-(i), Water Code, and the Election Code.

25 (e) The two initial directors elected to represent each  
26 commissioners precinct shall draw lots to decide which of the two  
27 directors shall serve a term lasting until the first regularly

1 scheduled election of directors under Section 11 of this Act, and  
2 which of the two directors shall serve until the second regularly  
3 scheduled election of directors. The at-large director shall serve  
4 until the second regularly scheduled election of directors.

5 (f) If the establishment of the district is not confirmed at  
6 an election held under this section before September 1, 2005, the  
7 district is dissolved, except that:

8 (1) any debts incurred shall be paid;

9 (2) any assets that remain after the payment of debts  
10 shall be transferred to Houston County; and

11 (3) the organization of the district shall be  
12 maintained until all debts are paid and remaining assets are  
13 transferred.

14 SECTION 11. ELECTION OF DIRECTORS. (a) On the first  
15 Saturday in May of the first even-numbered year after the year in  
16 which the district is authorized to be created at a confirmation  
17 election, an election shall be held in the district for the election  
18 of four directors for the positions held by the four initial  
19 directors serving shorter terms from the confirmation election.

20 (b) On the first Saturday in May of each subsequent  
21 even-numbered year following the election, the appropriate number  
22 of directors shall be elected.

23 SECTION 12. GENERAL POWERS. Except as otherwise provided  
24 by this Act, the district has all of the rights, powers, privileges,  
25 authority, functions, and duties provided by the general law of  
26 this state, including Chapter 36, Water Code, applicable to  
27 groundwater conservation districts created under Section 59,

1 Article XVI, Texas Constitution.

2 SECTION 13. LIMITATION ON TAXATION. The district may not  
3 impose an ad valorem tax at a rate that exceeds three cents on each  
4 \$100 of assessed valuation of taxable property in the district.

5 SECTION 14. FEES. (a) The board may by rule impose  
6 reasonable fees on each well:

7 (1) for which a permit is issued by the district; and

8 (2) that is not exempt from district regulation.

9 (b) A production fee may be based on:

10 (1) the size of column pipe used by the well; or

11 (2) the amount of water actually withdrawn from the  
12 well, or the amount authorized or anticipated to be withdrawn.

13 (c) The board shall base the initial production fee on the  
14 criteria listed in Subsection (b)(2) of this section. The initial  
15 production fee:

16 (1) may not exceed:

17 (A) \$0.25 per acre-foot for water used for  
18 agricultural irrigation; or

19 (B) \$0.0425 per thousand gallons for water used  
20 for any other purpose; and

21 (2) may be increased at a cumulative rate not to exceed  
22 three percent per year.

23 (d) In addition to the production fee authorized under this  
24 section, the district may assess an export fee on groundwater from a  
25 well that is produced for transport outside the district.

26 (e) Fees authorized by this section may be:

27 (1) assessed annually; and

1           (2)   used to pay the cost of district operations.

2           SECTION 15. GROUNDWATER WELLS UNDER RAILROAD COMMISSION  
3 JURISDICTION.   (a)   Except as provided by this section, a  
4 groundwater well drilled or operated within the district under a  
5 permit issued by the Railroad Commission of Texas is under the  
6 exclusive jurisdiction of the railroad commission and is exempt  
7 from regulation by the district.

8           (b)   Groundwater produced in an amount authorized by a  
9 railroad commission permit may be used within or exported from the  
10 district without a permit from the district.

11          (c)   To the extent groundwater is produced in excess of  
12 railroad commission authorization, the holder of the railroad  
13 commission permit:

14               (1)   shall apply to the district for the appropriate  
15 permit for the excess production; and

16               (2)   is subject to the applicable regulatory fees.

17          (d)   The district may impose a production fee or an export  
18 fee on groundwater produced from a well that was drilled to support  
19 mining activities and that is otherwise exempt from regulation by  
20 the district under Subsection (a) of this section if that  
21 groundwater is used for municipal purposes or by a public utility.  
22 Any fee imposed under this subsection may not exceed the fee imposed  
23 on other groundwater producers in the district.

24          SECTION 16. EXEMPTION FROM FEES. (a) Except as provided by  
25 Subsection (b) of this section, the district may not assess a fee on  
26 a well drilled by a nonprofit rural water supply corporation, water  
27 district, or other political subdivision if the well's production

1 is for use within the district.

2 (b) The district by emergency order of the board may impose  
3 a reasonable and temporary production fee on a well described by  
4 Subsection (a) of this section if:

5 (1) severe drought or other district emergency makes  
6 the fee necessary; and

7 (2) the term of the order does not exceed 180 days.

8 SECTION 17. EXEMPTION FROM PERMIT REQUIREMENTS. (a)  
9 Except as provided by Subsection (b) of this section or by Section  
10 15(c) of this Act, the district may not require a permit for a well  
11 completed before the date on which the district is confirmed under  
12 Section 10 of this Act.

13 (b) The district may require a permit for a well otherwise  
14 exempt under Subsection (a) of this section if:

15 (1) the well is altered in order to increase the amount  
16 of production from the well; and

17 (2) the alteration occurs on or after the date on which  
18 the district is confirmed under Section 10 of this Act.

19 SECTION 18. LIMITATION ON INDEBTEDNESS. The district may  
20 issue bonds and notes under Subchapter F, Chapter 36, Water Code,  
21 except that the total indebtedness created by that issuance may not  
22 exceed \$500,000 at any time.

23 SECTION 19. PROHIBITION ON DISTRICT PURCHASE, SALE,  
24 TRANSPORT, OR DISTRIBUTION OF WATER. The district may not  
25 purchase, sell, transport, or distribute surface water or  
26 groundwater for any purpose.

27 SECTION 20. PROHIBITION ON DISTRICT USE OF EMINENT DOMAIN



1 POWERS. The district may not exercise the power of eminent domain  
2 under Section 36.105, Water Code.

3 SECTION 21. REGIONAL COOPERATION. To provide for regional  
4 continuity, the district shall:

5 (1) participate as needed in coordination meetings  
6 with other groundwater districts in its designated management area;

7 (2) coordinate the collection of data with other  
8 groundwater conservation districts in its designated management  
9 area in such a way as to achieve relative uniformity of data type  
10 and quality;

11 (3) coordinate efforts to monitor water quality with  
12 other groundwater conservation districts in its designated  
13 management area, local governments, and state agencies;

14 (4) provide groundwater level data to other  
15 groundwater conservation districts in its designated management  
16 area;

17 (5) investigate any groundwater or aquifer pollution  
18 with the intention of locating its source;

19 (6) notify other groundwater conservation districts  
20 in its designated management area and all appropriate agencies of  
21 any groundwater pollution detected;

22 (7) annually provide to other groundwater  
23 conservation districts in its designated management area an  
24 inventory of water wells and an estimate of groundwater production  
25 within the district; and

26 (8) include other groundwater conservation districts  
27 in its designated management area on the mailing lists for district

1 newsletters, seminars, public education events, news articles, and  
2 field days.

3 SECTION 22. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.

4 (a) The legal notice of the intention to introduce this Act,  
5 setting forth the general substance of this Act, has been published  
6 as provided by law, and the notice and a copy of this Act have been  
7 furnished to all persons, agencies, officials, or entities to which  
8 they are required to be furnished under Section 59, Article XVI,  
9 Texas Constitution, and Chapter 313, Government Code.

10 (b) The governor has submitted the notice and Act to the  
11 Texas Commission on Environmental Quality.

12 (c) The Texas Commission on Environmental Quality has filed  
13 its recommendations relating to this Act with the governor,  
14 lieutenant governor, and speaker of the house of representatives  
15 within the required time.

16 (d) All requirements of the constitution and laws of this  
17 state and the rules and procedures of the legislature with respect  
18 to the notice, introduction, and passage of this Act are fulfilled  
19 and accomplished.

20 SECTION 23. EFFECTIVE DATE; EXPIRATION DATE. (a) This Act  
21 takes effect September 1, 2003.

22 (b) If the creation of the district is not confirmed at a  
23 confirmation election held under Section 10 of this Act before  
24 September 1, 2005, this Act expires on that date.

# HOUSE COMMITTEE REPORT

03 MAY 11 PM 12: 50  
HOUSE OF REPRESENTATIVES

1<sup>st</sup> Printing

By: Hopson

H.B. No. 3601

Substitute the following for H.B. No. 3601:

By: Hardcastle

C.S.H.B. No. 3601

## A BILL TO BE ENTITLED

1 AN ACT

2 relating to the creation, administration, powers, duties,  
3 operation, and financing of the Houston County Groundwater  
4 Conservation District.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. DEFINITIONS. In this Act:

7 (1) "Board" means the board of directors of the  
8 Houston County Groundwater Conservation District.

9 (2) "Designated management area" means an area  
10 designated as a management area under Section 35.004, Water Code.

11 (3) "Director" means a member of the board.

12 (4) "District" means the Houston County Groundwater  
13 Conservation District.

14 SECTION 2. CREATION. (a) A groundwater conservation  
15 district, to be known as the Houston County Groundwater  
16 Conservation District, is created in Houston County, subject to  
17 approval at a confirmation election under Section 10 of this Act.

18 (b) The district is a governmental agency and a political  
19 subdivision of this state.

20 SECTION 3. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The  
21 district is created to serve a public use and benefit.

22 (b) The district is created under and is essential to  
23 accomplish the purposes of Section 59, Article XVI, Texas  
24 Constitution.

(c) The district is created to:

(1) provide for the protection, recharging, and prevention of waste of groundwater in the Houston County area;

(2) control subsidence caused by the withdrawal of water from the groundwater reservoirs in that area; and

(3) regulate the transport of groundwater out of the boundaries of the district.

(d) All of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by Section 59, Article XVI, Texas Constitution.

SECTION 4. BOUNDARIES. The boundaries of the district are coextensive with the boundaries of Houston County, Texas.

SECTION 5. APPLICABILITY OF OTHER LAW. This Act prevails over any provision of general law that is in conflict or inconsistent with this Act, including any provision of Chapter 36, Water Code.

SECTION 6. BOARD OF DIRECTORS. (a) The district is governed by a board of nine directors.

(b) Temporary directors are appointed under Section 7 of this Act and serve until initial directors are elected under Section 10 of this Act.

(c) Four of the initial directors serve until the first election of permanent directors under Section 11 of this Act. Five of the initial directors serve until the second election of permanent directors under Section 11 of this Act.

(d) Permanent directors serve staggered four-year terms.

1 (e) Each director, including temporary directors, must  
2 qualify to serve as director in the manner provided by Section  
3 36.055, Water Code.

4 (f) A director may serve consecutive terms.

5 (g) If there is a vacancy in the office of temporary  
6 director, the Houston County Commissioners Court shall appoint a  
7 person to fill the vacancy in accordance with the appointment  
8 method under Section 7 of this Act.

9 (h) A director is entitled to receive fees of office of not  
10 more than \$50 a day for each day the director actually spends  
11 performing the duties of a director. The fees of office may not  
12 exceed \$3,000 a year.

13 (i) The board may authorize a director to receive  
14 reimbursement for the director's reasonable expenses incurred  
15 while engaging in activities on behalf of the board.

16 (j) A majority vote of a quorum is required for board  
17 action. If there is a tie vote, the proposed action fails.

18 SECTION 7. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Not  
19 later than the 45th day after the effective date of this Act:

20 (1) the Houston County Commissioners Court shall  
21 appoint two temporary directors from each of the four commissioners  
22 precincts to represent the precincts in which they reside; and

23 (2) the county judge of Houston County shall appoint  
24 one temporary director who resides in the district to represent the  
25 district at large.

26 (b) At least one of the temporary directors must represent  
27 the interests of rural water suppliers in the district, and one of

1 the temporary directors must represent agricultural interests in  
2 the district.

3 SECTION 8. ORGANIZATIONAL MEETING. As soon as practicable  
4 after all the temporary directors have qualified according to  
5 Section 6(e) of this Act, a majority of the temporary directors  
6 shall convene the organizational meeting of the district at a  
7 location within the district agreeable to a majority of the  
8 directors. If no location can be agreed upon, the organizational  
9 meeting shall be at the Houston County Courthouse.

10 SECTION 9. METHOD OF ELECTING DIRECTORS: COMMISSIONERS  
11 PRECINCTS. (a) The directors of the district shall be elected  
12 according to the commissioners precinct method as provided by this  
13 section.

14 (b) One director shall be elected by the voters of the  
15 entire district, and two directors shall be elected from each  
16 county commissioners precinct by the voters of that precinct.

17 (c) Except as provided by Subsection (e) of this section, to  
18 be eligible to be a candidate for or to serve as director at large, a  
19 person must be a registered voter in the district. To be a  
20 candidate for or to serve as director from a county commissioners  
21 precinct, a person must be a registered voter of that precinct.

22 (d) A person shall indicate on the application for a place  
23 on the ballot:

24 (1) the precinct that the person seeks to represent;  
25 or

26 (2) that the person seeks to represent the district at  
27 large.

1           (e) When the boundaries of the county commissioners  
2 precincts are redrawn after each federal decennial census to  
3 reflect population changes, a director in office on the effective  
4 date of the change, or a director elected or appointed before the  
5 effective date of the change whose term of office begins on or after  
6 the effective date of the change, shall serve in the precinct to  
7 which elected or appointed even though the change in boundaries  
8 places the person's residence outside the precinct for which the  
9 person was elected or appointed.

10           SECTION 10. CONFIRMATION AND INITIAL DIRECTORS' ELECTION.

11       (a) The temporary directors shall call and hold an election to  
12 confirm the creation of the district.

13       (b) At the confirmation and initial directors' election,  
14 the temporary directors shall have placed on the ballot the name of  
15 any candidate filing for an initial director's position and blank  
16 spaces to write in the names of other persons. A temporary director  
17 who is eligible to be a candidate under Section 9 of this Act may  
18 file for a position as an initial director.

19       (c) Section 41.001(a), Election Code, does not apply to a  
20 confirmation and initial directors' election held as provided by  
21 this section.

22       (d) Except as provided by this section, a confirmation and  
23 initial directors' election must be conducted as provided by  
24 Sections 36.017(b)-(i), Water Code, and the Election Code.

25       (e) The two initial directors elected to represent each  
26 commissioners precinct shall draw lots to decide which of the two  
27 directors shall serve a term lasting until the first regularly

1 scheduled election of directors under Section 11 of this Act, and  
2 which of the two directors shall serve until the second regularly  
3 scheduled election of directors. The at-large director shall serve  
4 until the second regularly scheduled election of directors.

5 (f) If the establishment of the district is not confirmed at  
6 an election held under this section before September 1, 2005, the  
7 district is dissolved, except that:

8 (1) any debts incurred shall be paid;

9 (2) any assets that remain after the payment of debts  
10 shall be transferred to Houston County; and

11 (3) the organization of the district shall be  
12 maintained until all debts are paid and remaining assets are  
13 transferred.

14 SECTION 11. ELECTION OF DIRECTORS. (a) On the first  
15 Saturday in May of the first even-numbered year after the year in  
16 which the district is authorized to be created at a confirmation  
17 election, an election shall be held in the district for the election  
18 of four directors for the positions held by the four initial  
19 directors serving shorter terms from the confirmation election.

20 (b) On the first Saturday in May of each subsequent  
21 even-numbered year following the election, the appropriate number  
22 of directors shall be elected.

23 SECTION 12. GENERAL POWERS. Except as otherwise provided  
24 by this Act, the district has all of the rights, powers, privileges,  
25 authority, functions, and duties provided by the general law of  
26 this state, including Chapter 36, Water Code, applicable to  
27 groundwater conservation districts created under Section 59,



Article XVI, Texas Constitution.

SECTION 13. LIMITATION ON TAXATION. The district may not impose an ad valorem tax at a rate that exceeds three cents on each \$100 of assessed valuation of taxable property in the district.

SECTION 14. FEES. (a) The board may by rule impose reasonable fees on each well:

(1) for which a permit is issued by the district; and

(2) that is not exempt from district regulation.

(b) A production fee may be based on:

(1) the size of column pipe used by the well; or

(2) the amount of water actually withdrawn from the well, or the amount authorized or anticipated to be withdrawn.

(c) The board shall base the initial production fee on the criteria listed in Subsection (b)(2) of this section. The initial production fee:

(1) may not exceed:

(A) \$0.25 per acre-foot for water used for agricultural irrigation; or

(B) \$0.0425 per thousand gallons for water used for any other purpose; and

(2) may be increased at a cumulative rate not to exceed three percent per year.

(d) In addition to the production fee authorized under this section, the district may assess an export fee on groundwater from a well that is produced for transport outside the district.

(e) Fees authorized by this section may be:

(1) assessed annually; and

1           (2)   used to pay the cost of district operations.

2           SECTION 15. GROUNDWATER WELLS UNDER RAILROAD COMMISSION  
3 JURISDICTION.   (a)   Except as provided by this section, a  
4 groundwater well drilled or operated within the district under a  
5 permit issued by the Railroad Commission of Texas is under the  
6 exclusive jurisdiction of the railroad commission and is exempt  
7 from regulation by the district.

8           (b)   Groundwater produced in an amount authorized by a  
9 railroad commission permit may be used within or exported from the  
10 district without a permit from the district.

11           (c)   To the extent groundwater is produced in excess of  
12 railroad commission authorization, the holder of the railroad  
13 commission permit:

14               (1)   shall apply to the district for the appropriate  
15 permit for the excess production; and

16               (2)   is subject to the applicable regulatory fees.

17           (d)   The district may impose a production fee or an export  
18 fee on groundwater produced from a well that was drilled to support  
19 mining activities and that is otherwise exempt from regulation by  
20 the district under Subsection (a) of this section if that  
21 groundwater is used for municipal purposes or by a public utility.  
22 Any fee imposed under this subsection may not exceed the fee imposed  
23 on other groundwater producers in the district.

24           SECTION 16. EXEMPTION FROM FEES. (a) Except as provided by  
25 Subsection (b) of this section, the district may not assess a fee on  
26 a well drilled by a nonprofit rural water supply corporation, water  
27 district, or other political subdivision if the well's production

1 is for use within the district.

2 (b) The district by emergency order of the board may impose  
3 a reasonable and temporary production fee on a well described by  
4 Subsection (a) of this section if:

5 (1) severe drought or other district emergency makes  
6 the fee necessary; and

7 (2) the term of the order does not exceed 180 days.

8 SECTION 17. LIMITATION ON INDEBTEDNESS. The district may  
9 issue bonds and notes under Subchapter F, Chapter 36, Water Code,  
10 except that the total indebtedness created by that issuance may not  
11 exceed \$500,000 at any time.

12 SECTION 18. PROHIBITION ON DISTRICT PURCHASE, SALE,  
13 TRANSPORT, OR DISTRIBUTION OF WATER. The district may not  
14 purchase, sell, transport, or distribute surface water or  
15 groundwater for any purpose.

16 SECTION 19. PROHIBITION ON DISTRICT USE OF EMINENT DOMAIN  
17 POWERS. The district may not exercise the power of eminent domain  
18 under Section 36.105, Water Code.

19 SECTION 20. REGIONAL COOPERATION. To provide for regional  
20 continuity, the district shall:

21 (1) participate as needed in coordination meetings  
22 with other groundwater districts in its designated management area;

23 (2) coordinate the collection of data with other  
24 groundwater conservation districts in its designated management  
25 area in such a way as to achieve relative uniformity of data type  
26 and quality;

27 (3) coordinate efforts to monitor water quality with

1 other groundwater conservation districts in its designated  
2 management area, local governments, and state agencies;

3 (4) provide groundwater level data to other  
4 groundwater conservation districts in its designated management  
5 area;

6 (5) investigate any groundwater or aquifer pollution  
7 with the intention of locating its source;

8 (6) notify other groundwater conservation districts  
9 in its designated management area and all appropriate agencies of  
10 any groundwater pollution detected;

11 (7) annually provide to other groundwater  
12 conservation districts in its designated management area an  
13 inventory of water wells and an estimate of groundwater production  
14 within the district; and

15 (8) include other groundwater conservation districts  
16 in its designated management area on the mailing lists for district  
17 newsletters, seminars, public education events, news articles, and  
18 field days.

19 SECTION 21. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.

20 (a) The legal notice of the intention to introduce this Act,  
21 setting forth the general substance of this Act, has been published  
22 as provided by law, and the notice and a copy of this Act have been  
23 furnished to all persons, agencies, officials, or entities to which  
24 they are required to be furnished under Section 59, Article XVI,  
25 Texas Constitution, and Chapter 313, Government Code.

26 (b) The governor has submitted the notice and Act to the  
27 Texas Commission on Environmental Quality.

1           (c) The Texas Commission on Environmental Quality has filed  
2 its recommendations relating to this Act with the governor,  
3 lieutenant governor, and speaker of the house of representatives  
4 within the required time.

5           (d) All requirements of the constitution and laws of this  
6 state and the rules and procedures of the legislature with respect  
7 to the notice, introduction, and passage of this Act are fulfilled  
8 and accomplished.

9           SECTION 22. EFFECTIVE DATE; EXPIRATION DATE. (a) This Act  
10 takes effect September 1, 2003.

11           (b) If the creation of the district is not confirmed at a  
12 confirmation election held under Section 10 of this Act before  
13 September 1, 2005, this Act expires on that date.

COMMITTEE REPORT

The Honorable Tom Craddick  
Speaker of the House of Representatives

5/7/03  
(date)

Sir:

We, your COMMITTEE ON NATURAL RESOURCES

to whom was referred HB 3601 have had the same under consideration and beg to report back with the recommendation that it

- ☐ do pass, without amendment.  
☐ do pass, with amendment(s).  
☒ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.  
☒ yes ☐ no A fiscal note was requested.  
☐ yes ☒ no A criminal justice policy impact statement was requested.  
☐ yes ☒ no An equalized educational funding impact statement was requested.  
☐ yes ☒ no An actuarial analysis was requested.  
☒ yes ☐ no A water development policy impact statement was requested.  
☐ yes ☒ no A tax equity note was requested.  
☒ The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor \_\_\_\_\_

Joint Sponsors: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Co-Sponsors: \_\_\_\_\_

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Puente, Chair	X			
Callegari, Vice-chair	X			
Campbell	X			
Cook, R.	X			
Geren	X			
Hamilton	X			
Hardcastle	X			
Hope	X			
Wolens				X

Total      8 aye  
              0 nay  
              0 present, not voting  
              1 absent

ACHTMA  
CHAIR

## **BILL ANALYSIS**

C.S.H.B. 3601  
By: Hopson  
Natural Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Texas faces a difficult challenge to develop water policies that serve both state and regional interests. The Texas Constitution authorizes the creation of groundwater conservation districts to plan, develop, and regulate the use of water. C.S.H.B. 3601 creates the Houston County Groundwater Conservation District, subject to approval at a confirmation election, to manage Houston County's groundwater resources.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 3601 creates the Houston County Groundwater Conservation District (district) in Houston County, subject to voter approval at a confirmation election. The bill provides that the district is governed by a board of nine directors, sets forth provisions regarding the composition and administration of the board and the election, qualifications, terms of the directors, and the designation of temporary directors. In addition, C.S.H.B. 3601 prohibits the district's use of eminent domain and also prohibits the district from purchasing, selling, transporting, or distributing surface water or groundwater for any purpose.

This legislation prohibits the district from levying or collecting an ad valorem tax at a rate that exceeds three cents on each \$100 valuation of taxable property in the district. The bill limits the use as well as the amount of fees the district can impose and also limits indebtedness not to exceed \$500,000 at any time. This legislation also sets forth provisions regarding an election to confirm establishment of the district.

### **EFFECTIVE DATE**

September 1, 2003

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.H.B. 3601 strikes Section 17 of the original bill regarding existing well exemptions. The previous language was overly broad. Adequate and applicable exemptions already exist in Chapter 36.117 of the Water Code.

## SUMMARY OF COMMITTEE ACTION

HB 3601

April 30, 2003      3:00PM      or upon final adjourn./recess

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Considered in public hearing  
Testimony taken in committee (Legislator(s) only.)  
Left pending in committee

May 2, 2003      upon final adjourn./recess

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Considered in formal meeting  
Committee substitute considered in committee  
Recommended to be sent to Local & Consent  
Reported favorably as substituted

May 7, 2003      8:00AM

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Considered in public hearing  
Vote reconsidered in committee  
Vote reconsidered in committee  
Committee substitute considered in committee  
Recommended to be sent to Local & Consent  
Reported favorably as substituted

2



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION**

**May 10, 2003**

**TO:** Honorable Robert Puente, Chair, House Committee on Natural Resources

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: HB3601** by Hopson (Relating to the creation, administration, powers, duties, operation, and financing of the Houston County Groundwater Conservation District.), **Committee Report 1st House, Substituted**

<b>No fiscal implication to the State is anticipated.</b>
---

**Local Government Impact**

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House as to its probable fiscal implication on units of local government.

**Source Agencies:**

**LBB Staff:** JK, CL

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION**

**April 26, 2003**

**TO:** Honorable Robert Puente, Chair, House Committee on Natural Resources

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: HB3601** by Hopson (Relating to the creation, administration, powers, duties, operation, and financing of the Houston County Groundwater Conservation District.), **As Introduced**

<b>No fiscal implication to the State is anticipated.</b>
---

**Local Government Impact**

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House as to its probable fiscal implication on units of local government.

**Source Agencies:**

**LBB Staff:** JK, CL

4

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**WATER DEVELOPMENT POLICY IMPACT STATEMENT**

**78TH LEGISLATIVE REGULAR SESSION**

**May 10, 2003**

**TO:** Honorable Robert Puente, Chair, House Committee on Natural Resources

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: HB3601** by Hopson (Relating to the creation, administration, powers, duties, operation, and financing of the Houston County Groundwater Conservation District.), **Committee Report 1st House, Substituted**

The Legislative Budget Board in cooperation with the Water Development Board (TWDB) and Texas Commission on Environmental Quality (TCEQ), has determined the following:

Subject to a confirmation election, the bill creates the Houston County Groundwater Conservation District (District) providing for the powers, duties, administration, operations and financing of the District. The bill authorizes the District with the powers and duties of Texas Water Code, Chapter 36, related to the general law for Groundwater Conservation Districts (GCDs).

- 1) Population** - The boundaries of the proposed district are coextensive with the boundary of Houston County. The population of the proposed district in the Year 2000 Census was 23,185 residents. Population projections developed by the Texas Water Development Board indicate the population of the proposed district should increase to approximately 23,491 by the year 2020.
- 2) Location & Size** - The District's boundaries would be coextensive with the boundaries of Houston County. Houston County is not located within a Priority Groundwater Management Area designated by the TCEQ.
- 3) Powers** - Same as general law GCDs under Texas Water Code, Chapter 36 with some limitations as noted below.
- 4) District Finances** - Same as general law GCDs under Texas Water Code, Chapter 36, including issuance of bonds and notes, levying of maintenance tax, assessing of production fees, export fees, and administrative fees. The total indebtedness of the district as created by the issuance of bonds or notes under Chapter 36 is limited to \$500,000, different from general law in Chapter 36 which does not provide a cap on indebtedness. Similar to general law GCDs, the District would be authorized to assess annual production fees on each well for which a permit is issued by the District. District production fees would be based on the size of the column pipe, the amount of water actually withdrawn from wells or the amount authorized to be withdrawn. The fees may not exceed \$0.25 per acre-foot for water used for agricultural purposes and \$0.0425 per 1000 gallons of water for any purpose. Production fees may be increased at a cumulative rate not to exceed 3 percent per year. Under general law, annual production fees may not exceed \$1 per acre-foot for water used for agricultural purposes or \$10 per acre-foot for water used for any other purpose. Similar to general law GCDs, the District may assess an export fee for groundwater produced from a well for transport out of the district in addition to the production fee. Export fees may be assessed annually and used to pay the cost of district operations. The District may not assess a fee, except during a drought or other district emergency, on a well drilled by a nonprofit water supply corporation, water district, or other political subdivision if the well's production is for use within the District.

5

**5) Board of Directors** - The District would be governed by a board of nine elected directors serving staggered four-year terms. Unlike general law GCDs, directors would be elected according to the commissioners precinct method with two directors elected from each commissioners precinct and one director elected at-large. The temporary directors are responsible for scheduling and conducting the District's confirmation and initial directors election. Eight temporary directors are appointed by the Commissioners Court of Houston County and one temporary director is appointed by the County Judge for Houston County. The appointments are to include one representative of rural water supply interests and one representative of agricultural interests in the District. Initial directors would be elected at the confirmation election if the District is confirmed by the voters. Four initial directors would serve until the first permanent directors election and the other five initial directors would serve until the second permanent directors election. The initial directors in each precinct would draw lots to determine which one would serve until the first permanent directors election and which one would serve until the second permanent directors election. In May of the first even-numbered year after the year in which the District is confirmed by election, four permanent directors would be elected. The appropriate number of directors would then be elected in May of each subsequent second year. General law GCDs under Texas Water Code, Chapter 36, have 5 to 11 directors elected by the general precinct method.

**6) Eminent Domain** - Unlike general law GCDs under Texas Water Code, Chapter 36, the District is not authorized to exercise the power of eminent domain.

**7) Ability to Tax** - Similar to general law GCDs under Texas Water Code, Chapter 36, including the levy of taxes for the repayment of bonds or notes and the levy of a maintenance tax. Both types of taxes are subject to voter authorization. The District may not may not levy a tax that exceeds \$0.03 per \$100 of assessed valuation. Under Texas Water Code, Chapter 36, the maintenance tax for general law GCDs may not exceed \$0.50 per \$100 assessed valuation and the tax rate for the repayment of bonds or notes is not limited.

**8) Overlapping Services** - There are no other GCDs in Houston County.

**9) Exclusion and Addition of Territory** - As with general law for GCDs, there are no provisions to exclude territory.

**10) Adequacy of Boundary Description** - The District's boundaries would be the same as the county boundaries of Houston County and form a closure.

**11) Comments on Powers /Duties Different from Similar Types of Districts** - District directors are entitled to receive fees of office of not more than \$50 a day for each day spends performing duties as a director. The fees of office may not exceed \$3,000. These fees of office are less than those authorized under the general law which provide for \$150 per day and a limit of \$9,000 per year. Similar to general law GCDs, water wells drilled or operated under Railroad Commission of Texas permits are exempted from District regulation except where water production exceeds the Commission's permit. Unlike general law GCDs, the District may assess production or export fees for water produced from mining activities otherwise exempted from regulation if the water is used for municipal purposes or by a public utility. Unlike general law GCDs which are not required to grandfather existing wells, the District may not require a permit for a well completed prior to the confirmation of the District. Alteration of a well may be permitted after the confirmation date if the production is increased. Unlike general law GCDs, the District may not purchase, sell, transport or distribute surface water or groundwater for any purpose. Differing from the requirements of general law, the District is subject to more stringent requirements for cooperation with other groundwater districts within the same designated groundwater management area. These requirements include coordinating data collection, monitoring, and investigations; sharing data; and notification of detections of pollution. If passed, the Act would become effective on September 1, 2001. The Act would expire if the District has not been confirmed at an election held before on September 1, 2005.

**12) TCEQ Supervision** - Same as for general law GCDs, including bond review authority. The TCEQ's supervision authority as it is related to the District's development and implementation of a management plan would be the same as for general law GCDs. As with general law GCDs, the District would not have to comply with TCEQ financial auditing requirements.

**13) State Water Plan Objectives** - Local groundwater resources provided approximately 43 percent of the district's water use in the year 2000. Municipal water use accounted for 59 percent of the annual groundwater use. The remaining groundwater use was split roughly between irrigated agriculture and livestock raising. Board staff finds that creation of the proposed district is not in conflict with the State Water Plan objectives of promoting the efficient use of local groundwater resources and the implementation of practices and programs to effectively manage local groundwater resources.

**Source Agencies:** 580 Water Development Board, 582 Commission on Environmental Quality  
**LBB Staff:** JK, CL

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**WATER DEVELOPMENT POLICY IMPACT STATEMENT**

**78TH LEGISLATIVE REGULAR SESSION**

**April 29, 2003**

**TO:** Honorable Robert Puente, Chair, House Committee on Natural Resources

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: HB3601** by Hopson (Relating to the creation, administration, powers, duties, operation, and financing of the Houston County Groundwater Conservation District.), **As Introduced**

The Legislative Budget Board in cooperation with the Water Development Board (TWDB) and Texas Commission on Environmental Quality (TCEQ), has determined the following:

Subject to a confirmation election, the bill creates the Houston County Groundwater Conservation District (District) providing for the powers, duties, administration, operations and financing of the District. The bill authorizes the District with the powers and duties of Texas Water Code, Chapter 36, related to the general law for Groundwater Conservation Districts (GCDs).

**1) Population** - The boundaries of the proposed district are coextensive with the boundary of Houston County. The population of the proposed district in the Year 2000 Census was 23,185 residents. Population projections developed by the Texas Water Development Board indicate the population of the proposed district should increase to approximately 23,491 by the year 2020.

**2) Location & Size** - The District's boundaries would be coextensive with the boundaries of Houston County. Houston County is not located within a Priority Groundwater Management Area designated by the TCEQ.

**3) Powers** - Same as general law GCDs under Texas Water Code, Chapter 36 with some limitations as noted below.

**4) District Finances** - Same as general law GCDs under Texas Water Code, Chapter 36, including issuance of bonds and notes, levying of maintenance tax, assessing of production fees, export fees, and administrative fees. The total indebtedness of the district as created by the issuance of bonds or notes under Chapter 36 is limited to \$500,000, different from general law in Chapter 36 which does not provide a cap on indebtedness. Similar to general law GCDs, the District would be authorized to assess annual production fees on each well for which a permit is issued by the District. District production fees would be based on the size of the column pipe, the amount of water actually withdrawn from wells or the amount authorized to be withdrawn. The fees may not exceed \$0.25 per acre-foot for water used for agricultural purposes and \$0.0425 per 1000 gallons of water for any purpose. Production fees may be increased at a cumulative rate not to exceed 3 percent per year. Under general law, annual production fees may not exceed \$1 per acre-foot for water used for agricultural purposes or \$10 per acre-foot for water used for any other purpose. Similar to general law GCDs, the District may assess an export fee for groundwater produced from a well for transport out of the district in addition to the production fee. Export fees may be assessed annually and used to pay the cost of district operations. The District may not assess a fee, except during a drought or other district emergency, on a well drilled by a nonprofit water supply corporation, water district, or other political subdivision if the well's production is for use within the District.

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- 5) Board of Directors** - The District would be governed by a board of nine elected directors serving staggered four-year terms. Unlike general law GCDs, directors would be elected according to the commissioners precinct method with two directors elected from each commissioners precinct and one director elected at-large. The temporary directors are responsible for scheduling and conducting the District's confirmation and initial directors election. Eight temporary directors are appointed by the Commissioners Court of Houston County and one temporary director is appointed by the County Judge for Houston County. The appointments are to include one representative of rural water supply interests and one representative of agricultural interests in the District. Initial directors would be elected at the confirmation election if the District is confirmed by the voters. Four initial directors would serve until the first permanent directors election and the other five initial directors would serve until the second permanent directors election. The initial directors in each precinct would draw lots to determine which one would serve until the first permanent directors election and which one would serve until the second permanent directors election. In May of the first even-numbered year after the year in which the District is confirmed by election, four permanent directors would be elected. The appropriate number of directors would then be elected in May of each subsequent second year. General law GCDs under Texas Water Code, Chapter 36, have 5 to 11 directors elected by the general precinct method.
- 6) Eminent Domain** - Unlike general law GCDs under Texas Water Code, Chapter 36, the District is not authorized to exercise the power of eminent domain.
- 7) Ability to Tax** - Similar to general law GCDs under Texas Water Code, Chapter 36, including the levy of taxes for the repayment of bonds or notes and the levy of a maintenance tax. Both types of taxes are subject to voter authorization. The District may not may not levy a tax that exceeds \$0.03 per \$100 of assessed valuation. Under Texas Water Code, Chapter 36, the maintenance tax for general law GCDs may not exceed \$0.50 per \$100 assessed valuation and the tax rate for the repayment of bonds or notes is not limited.
- 8) Overlapping Services** - There are no other GCDs in Houston County.
- 9) Exclusion and Addition of Territory** - As with general law for GCDs, there are no provisions to exclude territory.
- 10) Adequacy of Boundary Description** - The District's boundaries would be the same as the county boundaries of Houston County and form a closure.
- 11) Comments on Powers /Duties Different from Similar Types of Districts** - District directors are entitled to receive fees of office of not more than \$50 a day for each day spends performing duties as a director. The fees of office may not exceed \$3,000. These fees of office are less than those authorized under the general law which provide for \$150 per day and a limit of \$9,000 per year. Similar to general law GCDs, water wells drilled or operated under Railroad Commission of Texas permits are exempted from District regulation except where water production exceeds the Commission's permit. Unlike general law GCDs, the District may assess production or export fees for water produced from mining activities otherwise exempted from regulation if the water is used for municipal purposes or by a public utility. Unlike general law GCDs which are not required to grandfather existing wells, the District may not require a permit for a well completed prior to the confirmation of the District. Alteration of a well may be permitted after the confirmation date if the production is increased. Unlike general law GCDs, the District may not purchase, sell, transport or distribute surface water or groundwater for any purpose. Differing from the requirements of general law, the District is subject to more stringent requirements for cooperation with other groundwater districts within the same designated groundwater management area. These requirements include coordinating data collection, monitoring, and investigations; sharing data; and notification of detections of pollution. If passed, the Act would become effective on September 1, 2001. The Act would expire if the District has not been confirmed at an election held before on September 1, 2005.

**12) TCEQ Supervision** - Same as for general law GCDs, including bond review authority. The TCEQ's supervision authority as it is related to the District's development and implementation of a management plan would be the same as for general law GCDs. As with general law GCDs, the District would not have to comply with TCEQ financial auditing requirements.

**13) State Water Plan Objectives** - Local groundwater resources provided approximately 43 percent of the district's water use in the year 2000. Municipal water use accounted for 59 percent of the annual groundwater use. The remaining groundwater use was split roughly between irrigated agriculture and livestock raising. Board staff finds that creation of the proposed district is not in conflict with the State Water Plan objectives of promoting the efficient use of local groundwater resources and the implementation of practices and programs to effectively manage local groundwater resources.

**Source Agencies:** 582 Commission on Environmental Quality, 580 Water Development Board  
**LBB Staff:** JK, CL

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# AFFIDAVIT OF PUBLICATION

The State of Texas  
County of Houston

BEFORE ME, the undersigned authority, on this day personally appeared the undersigned,

Billy Clark

of the

Houston County Courier, who swore and affirmed that the attached printed is a true and correct copy of the material of which it purports to be a copy as the same appeared in the respective issue(s) of March 20, 2003

Introducing bill to 78th Legislature

The correct charge for publication is \$25.20

Billy Clark  
Affiant

The above and foregoing sworn to and subscribed before me by the said affiant this

21

day of

March

A.D. 20 03

## PUBLIC NOTICE

This is to give notice of intent to introduce in the 78th Legislative Regular Session, a bill to be entitled "an Act relating to the creation, administration, power, duties, operations, and financing of the Houston County Groundwater Conservation District within the coextensive boundaries of Houston County. The District will not require a permit for wells completed before the District is confirmed; the District will not assess less than \$0.25 per acre-foot of water used for agricultural purposes within the District boundaries. The District will be responsible for the collection, transmission, and distribution of water for any purpose. The District may impose a reasonable fee for non-exempt wells but the initial fee may not exceed \$0.25 per acre-foot of water used for agricultural purposes. The District will be created under and is essential to accomplish the purposes of Section 59, Article XVI, of the Texas Constitution. Information regarding this Bill may be obtained from the office of the Houston County Judge.

# COMMITTEE REPORT

The Honorable Tom Craddick  
Speaker of the House of Representatives

5/7/03  
(date)

Sir:

We, your COMMITTEE ON NATURAL RESOURCES

to whom was referred HB 3601 have had the same under consideration and beg to report back with the recommendation that it

- ( ) do pass, without amendment.  
( ) do pass, with amendment(s).  
☒ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.  
☒ yes ( ) no A fiscal note was requested.  
( ) yes ☒ no A criminal justice policy impact statement was requested.  
( ) yes ☒ no An equalized educational funding impact statement was requested.  
( ) yes ☒ no An actuarial analysis was requested.  
☒ yes ( ) no A water development policy impact statement was requested.  
( ) yes ☒ no A tax equity note was requested.  
☒ The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor \_\_\_\_\_

Joint Sponsors: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Co-Sponsors: \_\_\_\_\_

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Puente, Chair	X			
Callegari, Vice-chair	X			
Campbell	X			
Cook, R.	X			
Geren	X			
Hamilton	X			
Hardcastle	X			
Hope	X			
Wolens				X

Total

8 aye

0 nay

0 present, not voting

1 absent

Al H. Mat  
CHAIR

## **BILL ANALYSIS**

C.S.H.B. 3601  
By: Hopson  
Natural Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Texas faces a difficult challenge to develop water policies that serve both state and regional interests. The Texas Constitution authorizes the creation of groundwater conservation districts to plan, develop, and regulate the use of water. C.S.H.B 3601 creates the Houston County Groundwater Conservation District, subject to approval at a confirmation election, to manage Houston County's groundwater resources.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 3601 creates the Houston County Groundwater Conservation District (district) in Houston County, subject to voter approval at a confirmation election. The bill provides that the district is governed by a board of nine directors, sets forth provisions regarding the composition and administration of the board and the election, qualifications, terms of the directors, and the designation of temporary directors. In addition, C.S.H.B. 3601 prohibits the district's use of eminent domain and also prohibits the district from purchasing, selling, transporting, or distributing surface water or groundwater for any purpose.

This legislation prohibits the district from levying or collecting an ad valorem tax at a rate that exceeds three cents on each \$100 valuation of taxable property in the district. The bill limits the use as well as the amount of fees the district can impose and also limits indebtedness not to exceed \$500,000 at any time. This legislation also sets forth provisions regarding an election to confirm establishment of the district.

### **EFFECTIVE DATE**

September 1, 2003

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.H.B. 3601 strikes Section 17 of the original bill regarding existing well exemptions. The previous language was overly broad. Adequate and applicable exemptions already exist in Chapter 36.117 of the Water Code.

## SUMMARY OF COMMITTEE ACTION

HB 3601

April 30, 2003            3:00PM    or upon final adjourn./recess

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Considered in public hearing  
Testimony taken in committee (Legislator(s) only.)  
Left pending in committee

May 2, 2003                            upon final adjourn./recess

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Considered in formal meeting  
Committee substitute considered in committee  
Recommended to be sent to Local & Consent  
Reported favorably as substituted

May 7, 2003            8:00AM

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Considered in public hearing  
Vote reconsidered in committee  
Vote reconsidered in committee  
Committee substitute considered in committee  
Recommended to be sent to Local & Consent  
Reported favorably as substituted

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION**

**May 10, 2003**

**TO:** Honorable Robert Puente, Chair, House Committee on Natural Resources

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: HB3601** by Hopson (Relating to the creation, administration, powers, duties, operation, and financing of the Houston County Groundwater Conservation District.), **Committee Report 1st House, Substituted**

<b>No fiscal implication to the State is anticipated.</b>
---

**Local Government Impact**

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House as to its probable fiscal implication on units of local government.

**Source Agencies:**

**LBB Staff:** JK, CL

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION**

**April 26, 2003**

**TO:** Honorable Robert Puente, Chair, House Committee on Natural Resources

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: HB3601** by Hopson (Relating to the creation, administration, powers, duties, operation, and financing of the Houston County Groundwater Conservation District.), **As Introduced**

<b>No fiscal implication to the State is anticipated.</b>
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**Source Agencies:**

**LBB Staff:** JK, CL

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**WATER DEVELOPMENT POLICY IMPACT STATEMENT**

**78TH LEGISLATIVE REGULAR SESSION**

**May 10, 2003**

**TO:** Honorable Robert Puente, Chair, House Committee on Natural Resources

**FROM:** John Keel, Director, Legislative Budget Board

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**1) Population** - The boundaries of the proposed district are coextensive with the boundary of Houston County. The population of the proposed district in the Year 2000 Census was 23,185 residents. Population projections developed by the Texas Water Development Board indicate the population of the proposed district should increase to approximately 23,491 by the year 2020.

**2) Location & Size** - The District's boundaries would be coextensive with the boundaries of Houston County. Houston County is not located within a Priority Groundwater Management Area designated by the TCEQ.

**3) Powers** - Same as general law GCDs under Texas Water Code, Chapter 36 with some limitations as noted below.

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**Source Agencies:** 580 Water Development Board, 582 Commission on Environmental Quality

**LBB Staff:** JK, CL

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**WATER DEVELOPMENT POLICY IMPACT STATEMENT**

**78TH LEGISLATIVE REGULAR SESSION**

**April 29, 2003**

**TO:** Honorable Robert Puente, Chair, House Committee on Natural Resources

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: HB3601** by Hopson (Relating to the creation, administration, powers, duties, operation, and financing of the Houston County Groundwater Conservation District.), **As Introduced**

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**Source Agencies:** 582 Commission on Environmental Quality, 580 Water Development Board

**LBB Staff:** JK, CL



Robert J. Huston, *Chairman*  
R. B. "Ralph" Marquez, *Commissioner*  
Kathleen Hartnett White, *Commissioner*  
Margaret Hoffman, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

May 1, 2003

The Honorable Tom Craddick  
Texas House of Representatives  
Capitol Station  
PO Box 2910  
Austin, Texas 78768-2910

Re: Responsibility of the Texas Commission on Environmental Quality (TCEQ) Pursuant to Article XVI, Section 59(d), Texas Constitution

HB-3601, as Filed by Representative Charles L. "Chuck" Hopson - Relating to the Creation, Administration, Powers, Duties, Operation, and Financing of Houston County Groundwater Conservation District

Dear Speaker Craddick:

The enclosed comments are provided pursuant to the Constitutional requirements referenced above. Under those requirements, the TCEQ must submit, to the Governor, Lieutenant Governor and Speaker of the House of Representatives, the TCEQ's recommendations on specific legislation affecting water districts. We recommend that these comments be considered in the evaluation of the proposed legislation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dale Beebe-Farrow".

Dale Beebe-Farrow, P.E., Director  
Water Supply Division

DBF/DA/sr

Enclosure

cc: The Honorable Robert Puente, Chairman, House Natural Resources Committee  
The Honorable Charles L. "Chuck" Hopson, Texas House of Representatives

**H.B. 3601, as Filed by Representative Charles L. "Chuck" Hopson  
Texas Commission on Environmental Quality Comments**

Subject to a confirmation election, the bill creates the Houston County Groundwater Conservation District (District) providing for the powers, duties, administration, operations and financing of the District. The bill authorizes the District with the powers and duties of Texas Water Code, Chapter 36, related to the general law for Groundwater Conservation Districts (GCDs).

**Purpose.** Same as general law GCDs under Texas Water Code, Chapter 36, to provide for the conservation, preservation, protection, recharging, and prevention of waste of groundwater, and to control subsidence caused by the withdrawal of groundwater. The bill also provides that a purpose of the District is to regulate transport of groundwater out of the District's boundaries.

**Location & Size.** The District's boundaries would be coextensive with the boundaries of Houston County. Houston County is not located within a Priority Groundwater Management Area designated by the TCEQ.

**Powers.** Same as general law GCDs under Texas Water Code, Chapter 36 with some limitations as noted below.

**District Finances.** Same as general law GCDs under Texas Water Code, Chapter 36, including issuance of bonds and notes, levying of maintenance tax, assessing of production fees, export fees, and administrative fees. The total indebtedness of the district as created by the issuance of bonds or notes under Chapter 36 is limited to \$500,000, different from general law in Chapter 36 which does not provide a cap on indebtedness. Similar to general law GCDs, the District would be authorized to assess annual production fees on each well for which a permit is issued by the District. District production fees would be based on the size of the column pipe, the amount of water actually withdrawn from wells or the amount authorized to be withdrawn. The fees may not exceed \$0.25 per acre-foot for water used for agricultural purposes and \$0.0425 per 1000 gallons of water for any purpose. Production fees may be increased at a cumulative rate not to exceed 3 percent per year. Under general law, annual production fees may not exceed \$1 per acre-foot for water used for agricultural purposes or \$10 per acre-foot for water used for any other purpose. Similar to general law GCDs, the District may assess an export fee for groundwater produced from a well for transport out of the district in addition to the production fee. Export fees may be assessed annually and used to pay the cost of district operations. The District may not assess a fee, except during a drought or other district emergency, on a well drilled by a nonprofit water supply corporation, water district, or other political subdivision if the well's production is for use within the District.

**Board of Directors.** The District would be governed by a board of nine elected directors serving staggered four-year terms. Unlike general law GCDs, directors would be elected according to the commissioners precinct method with two directors elected from each commissioners precinct and one director elected at-large. The temporary directors are responsible for scheduling and conducting the District's confirmation and initial directors election. Eight temporary directors are appointed by the Commissioners Court of Houston County and one temporary director is appointed by the County Judge for Houston County. The appointments are to include one representative of rural water supply interests and one representative of agricultural interests in the District. Initial directors would be elected at the confirmation election if the District is confirmed by the voters. Four initial directors would serve until the first permanent directors election and the other five initial directors would serve until the second permanent directors election. The initial directors in each precinct would draw lots to determine which one would serve until the first permanent directors election and which one would serve until the second permanent directors election. In May of the first even-numbered year after the year in which the District is confirmed by election, four permanent directors would

be elected. The appropriate number of directors would then be elected in May of each subsequent second year. General law GCDs under Texas Water Code, Chapter 36, have 5 to 11 directors elected by the general precinct method.

**Eminent Domain.** Unlike general law GCDs under Texas Water Code, Chapter 36, the District is not authorized to exercise the power of eminent domain.

**Ability to Tax.** Similar to general law GCDs under Texas Water Code, Chapter 36, including the levy of taxes for the repayment of bonds or notes and the levy of a maintenance tax. Both types of taxes are subject to voter authorization. The District may not may not levy a tax that exceeds \$0.03 per \$100 of assessed valuation. Under Texas Water Code, Chapter 36, the maintenance tax for general law GCDs may not exceed \$0.50 per \$100 assessed valuation and the tax rate for the repayment of bonds or notes is not limited.

**Overlapping Services.** There are no other GCDs in Houston County.

**Exclusion and Addition of Territory.** As with general law for GCDs, there are no provisions to exclude territory.

**Adequacy of Boundary Description.** The District's boundaries would be the same as the county boundaries of Houston County and form a closure.

**Comments on Powers /Duties Different from Similar Types of Districts.** District directors are entitled to receive fees of office of not more than \$50 a day for each day spends performing duties as a director. The fees of office may not exceed \$3,000. These fees of office are less than those authorized under the general law which provide for \$150 per day and a limit of \$9,000 per year. Similar to general law GCDs, water wells drilled or operated under Railroad Commission of Texas permits are exempted from District regulation except where water production exceeds the Commission's permit. Unlike general law GCDs, the District may assess production or export fees for water produced from mining activities otherwise exempted from regulation if the water is used for municipal purposes or by a public utility. Unlike general law GCDs which are not required to grandfather existing wells, the District may not require a permit for a well completed prior to the confirmation of the District. Alteration of a well may be permitted after the confirmation date if the production is increased. Unlike general law GCDs, the District may not purchase, sell, transport or distribute surface water or groundwater for any purpose. Differing from the requirements of general law, the District is subject to more stringent requirements for cooperation with other groundwater districts within the same designated groundwater management area. These requirements include coordinating data collection, monitoring, and investigations; sharing data; and notification of detections of pollution. If passed, the Act would become effective on September 1, 2003. The Act would expire if the District has not been confirmed at an election held before on September 1, 2005.

**TCEQ Supervision.** Same as for general law GCDs, including bond review authority. The TCEQ's supervision authority as it is related to the District's development and implementation of a management plan would be the same as for general law GCDs. As with general law GCDs, the District would not have to comply with TCEQ financial auditing requirements.



ADOPTED

MAY 23 2003

Robert Haney  
Chief Clerk  
House of Representatives

By: Chuck Hapson

H.B. No. 3601

Substitute the following for H.B. No. 3601:

By: Hardcastle

C.S. H.B. No. 3601

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties,  
operation, and financing of the Houston County Groundwater  
Conservation District.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. DEFINITIONS. In this Act:

(1) "Board" means the board of directors of the  
Houston County Groundwater Conservation District.

(2) "Designated management area" means an area  
designated as a management area under Section 35.004, Water Code.

(3) "Director" means a member of the board.

(4) "District" means the Houston County Groundwater  
Conservation District.

SECTION 2. CREATION. (a) A groundwater conservation  
district, to be known as the Houston County Groundwater  
Conservation District, is created in Houston County, subject to  
approval at a confirmation election under Section 10 of this Act.

(b) The district is a governmental agency and a political  
subdivision of this state.

SECTION 3. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The  
district is created to serve a public use and benefit.

(b) The district is created under and is essential to  
accomplish the purposes of Section 59, Article XVI, Texas  
Constitution.

1 (c) The district is created to:

2 (1) provide for the protection, recharging, and  
3 prevention of waste of groundwater in the Houston County area;

4 (2) control subsidence caused by the withdrawal of  
5 water from the groundwater reservoirs in that area; and

6 (3) regulate the transport of groundwater out of the  
7 boundaries of the district.

8 (d) All of the land and other property included within the  
9 boundaries of the district will be benefited by the works and  
10 projects that are to be accomplished by the district under powers  
11 conferred by Section 59, Article XVI, Texas Constitution.

12 SECTION 4. BOUNDARIES. The boundaries of the district are  
13 coextensive with the boundaries of Houston County, Texas.

14 SECTION 5. APPLICABILITY OF OTHER LAW. This Act prevails  
15 over any provision of general law that is in conflict or  
16 inconsistent with this Act, including any provision of Chapter 36,  
17 Water Code.

18 SECTION 6. BOARD OF DIRECTORS. (a) The district is  
19 governed by a board of nine directors.

20 (b) Temporary directors are appointed under Section 7 of  
21 this Act and serve until initial directors are elected under  
22 Section 10 of this Act.

23 (c) Four of the initial directors serve until the first  
24 election of permanent directors under Section 11 of this Act. Five  
25 of the initial directors serve until the second election of  
26 permanent directors under Section 11 of this Act.

27 (d) Permanent directors serve staggered four-year terms.

1 (e) Each director, including temporary directors, must  
2 qualify to serve as director in the manner provided by Section  
3 36.055, Water Code.

4 (f) A director may serve consecutive terms.

5 (g) If there is a vacancy in the office of temporary  
6 director, the Houston County Commissioners Court shall appoint a  
7 person to fill the vacancy in accordance with the appointment  
8 method under Section 7 of this Act.

9 (h) A director is entitled to receive fees of office of not  
10 more than \$50 a day for each day the director actually spends  
11 performing the duties of a director. The fees of office may not  
12 exceed \$3,000 a year.

13 (i) The board may authorize a director to receive  
14 reimbursement for the director's reasonable expenses incurred  
15 while engaging in activities on behalf of the board.

16 (j) A majority vote of a quorum is required for board  
17 action. If there is a tie vote, the proposed action fails.

18 SECTION 7. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Not  
19 later than the 45th day after the effective date of this Act:

20 (1) the Houston County Commissioners Court shall  
21 appoint two temporary directors from each of the four commissioners  
22 precincts to represent the precincts in which they reside; and

23 (2) the county judge of Houston County shall appoint  
24 one temporary director who resides in the district to represent the  
25 district at large.

26 (b) At least one of the temporary directors must represent  
27 the interests of rural water suppliers in the district, and one of

1 the temporary directors must represent agricultural interests in  
2 the district.

3 SECTION 8. ORGANIZATIONAL MEETING. As soon as practicable  
4 after all the temporary directors have qualified according to  
5 Section 6(e) of this Act, a majority of the temporary directors  
6 shall convene the organizational meeting of the district at a  
7 location within the district agreeable to a majority of the  
8 directors. If no location can be agreed upon, the organizational  
9 meeting shall be at the Houston County Courthouse.

10 SECTION 9. METHOD OF ELECTING DIRECTORS: COMMISSIONERS  
11 PRECINCTS. (a) The directors of the district shall be elected  
12 according to the commissioners precinct method as provided by this  
13 section.

14 (b) One director shall be elected by the voters of the  
15 entire district, and two directors shall be elected from each  
16 county commissioners precinct by the voters of that precinct.

17 (c) Except as provided by Subsection (e) of this section, to  
18 be eligible to be a candidate for or to serve as director at large, a  
19 person must be a registered voter in the district. To be a  
20 candidate for or to serve as director from a county commissioners  
21 precinct, a person must be a registered voter of that precinct.

22 (d) A person shall indicate on the application for a place  
23 on the ballot:

24 (1) the precinct that the person seeks to represent;  
25 or

26 (2) that the person seeks to represent the district at  
27 large.

1 (e) When the boundaries of the county commissioners  
2 precincts are redrawn after each federal decennial census to  
3 reflect population changes, a director in office on the effective  
4 date of the change, or a director elected or appointed before the  
5 effective date of the change whose term of office begins on or after  
6 the effective date of the change, shall serve in the precinct to  
7 which elected or appointed even though the change in boundaries  
8 places the person's residence outside the precinct for which the  
9 person was elected or appointed.

10 SECTION 10. CONFIRMATION AND INITIAL DIRECTORS' ELECTION.

11 (a) The temporary directors shall call and hold an election to  
12 confirm the creation of the district.

13 (b) At the confirmation and initial directors' election,  
14 the temporary directors shall have placed on the ballot the name of  
15 any candidate filing for an initial director's position and blank  
16 spaces to write in the names of other persons. A temporary director  
17 who is eligible to be a candidate under Section 9 of this Act may  
18 file for a position as an initial director.

19 (c) Section 41.001(a), Election Code, does not apply to a  
20 confirmation and initial directors' election held as provided by  
21 this section.

22 (d) Except as provided by this section, a confirmation and  
23 initial directors' election must be conducted as provided by  
24 Sections 36.017(b)-(i), Water Code, and the Election Code.

25 (e) The two initial directors elected to represent each  
26 commissioners precinct shall draw lots to decide which of the two  
27 directors shall serve a term lasting until the first regularly

1 scheduled election of directors under Section 11 of this Act, and  
2 which of the two directors shall serve until the second regularly  
3 scheduled election of directors. The at-large director shall serve  
4 until the second regularly scheduled election of directors.

5 (f) If the establishment of the district is not confirmed at  
6 an election held under this section before September 1, 2005, the  
7 district is dissolved, except that:

8 (1) any debts incurred shall be paid;

9 (2) any assets that remain after the payment of debts  
10 shall be transferred to Houston County; and

11 (3) the organization of the district shall be  
12 maintained until all debts are paid and remaining assets are  
13 transferred.

14 SECTION 11. ELECTION OF DIRECTORS. (a) On the first  
15 Saturday in May of the first even-numbered year after the year in  
16 which the district is authorized to be created at a confirmation  
17 election, an election shall be held in the district for the election  
18 of four directors for the positions held by the four initial  
19 directors serving shorter terms from the confirmation election.

20 (b) On the first Saturday in May of each subsequent  
21 even-numbered year following the election, the appropriate number  
22 of directors shall be elected.

23 SECTION 12. GENERAL POWERS. Except as otherwise provided  
24 by this Act, the district has all of the rights, powers, privileges,  
25 authority, functions, and duties provided by the general law of  
26 this state, including Chapter 36, Water Code, applicable to  
27 groundwater conservation districts created under Section 59,

1 Article XVI, Texas Constitution.

2 SECTION 13. LIMITATION ON TAXATION. The district may not  
3 impose an ad valorem tax at a rate that exceeds three cents on each  
4 \$100 of assessed valuation of taxable property in the district.

5 SECTION 14. FEES. (a) The board may by rule impose  
6 reasonable fees on each well:

7 (1) for which a permit is issued by the district; and

8 (2) that is not exempt from district regulation.

9 (b) A production fee may be based on:

10 (1) the size of column pipe used by the well; or

11 (2) the amount of water actually withdrawn from the  
12 well, or the amount authorized or anticipated to be withdrawn.

13 (c) The board shall base the initial production fee on the  
14 criteria listed in Subsection (b)(2) of this section. The initial  
15 production fee:

16 (1) may not exceed:

17 (A) \$0.25 per acre-foot for water used for  
18 agricultural irrigation; or

19 (B) \$0.0425 per thousand gallons for water used  
20 for any other purpose; and

21 (2) may be increased at a cumulative rate not to exceed  
22 three percent per year.

23 (d) In addition to the production fee authorized under this  
24 section, the district may assess an export fee on groundwater from a  
25 well that is produced for transport outside the district.

26 (e) Fees authorized by this section may be:

27 (1) assessed annually; and

1           (2)   used to pay the cost of district operations.

2           SECTION 15. GROUNDWATER WELLS UNDER RAILROAD COMMISSION  
3 JURISDICTION.   (a)   Except as provided by this section, a  
4 groundwater well drilled or operated within the district under a  
5 permit issued by the Railroad Commission of Texas is under the  
6 exclusive jurisdiction of the railroad commission and is exempt  
7 from regulation by the district.

8           (b)   Groundwater produced in an amount authorized by a  
9 railroad commission permit may be used within or exported from the  
10 district without a permit from the district.

11          (c)   To the extent groundwater is produced in excess of  
12 railroad commission authorization, the holder of the railroad  
13 commission permit:

14               (1)   shall apply to the district for the appropriate  
15 permit for the excess production; and

16               (2)   is subject to the applicable regulatory fees.

17          (d)   The district may impose a production fee or an export  
18 fee on groundwater produced from a well that was drilled to support  
19 mining activities and that is otherwise exempt from regulation by  
20 the district under Subsection (a) of this section if that  
21 groundwater is used for municipal purposes or by a public utility.  
22 Any fee imposed under this subsection may not exceed the fee imposed  
23 on other groundwater producers in the district.

24          SECTION 16. EXEMPTION FROM FEES. (a) Except as provided by  
25 Subsection (b) of this section, the district may not assess a fee on  
26 a well drilled by a nonprofit rural water supply corporation, water  
27 district, or other political subdivision if the well's production



1 is for use within the district.

2 (b) The district by emergency order of the board may impose  
3 a reasonable and temporary production fee on a well described by  
4 Subsection (a) of this section if:

5 (1) severe drought or other district emergency makes  
6 the fee necessary; and

7 (2) the term of the order does not exceed 180 days.

8 SECTION 17. LIMITATION ON INDEBTEDNESS. The district may  
9 issue bonds and notes under Subchapter F, Chapter 36, Water Code,  
10 except that the total indebtedness created by that issuance may not  
11 exceed \$500,000 at any time.

12 SECTION 18. PROHIBITION ON DISTRICT PURCHASE, SALE,  
13 TRANSPORT, OR DISTRIBUTION OF WATER. The district may not  
14 purchase, sell, transport, or distribute surface water or  
15 groundwater for any purpose.

16 SECTION 19. PROHIBITION ON DISTRICT USE OF EMINENT DOMAIN  
17 POWERS. The district may not exercise the power of eminent domain  
18 under Section 36.105, Water Code.

19 SECTION 20. REGIONAL COOPERATION. To provide for regional  
20 continuity, the district shall:

21 (1) participate as needed in coordination meetings  
22 with other groundwater districts in its designated management area;

23 (2) coordinate the collection of data with other  
24 groundwater conservation districts in its designated management  
25 area in such a way as to achieve relative uniformity of data type  
26 and quality;

27 (3) coordinate efforts to monitor water quality with

1 other groundwater conservation districts in its designated  
2 management area, local governments, and state agencies;

3 (4) provide groundwater level data to other  
4 groundwater conservation districts in its designated management  
5 area;

6 (5) investigate any groundwater or aquifer pollution  
7 with the intention of locating its source;

8 (6) notify other groundwater conservation districts  
9 in its designated management area and all appropriate agencies of  
10 any groundwater pollution detected;

11 (7) annually provide to other groundwater  
12 conservation districts in its designated management area an  
13 inventory of water wells and an estimate of groundwater production  
14 within the district; and

15 (8) include other groundwater conservation districts  
16 in its designated management area on the mailing lists for district  
17 newsletters, seminars, public education events, news articles, and  
18 field days.

19 SECTION 21. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.

20 (a) The legal notice of the intention to introduce this Act,  
21 setting forth the general substance of this Act, has been published  
22 as provided by law, and the notice and a copy of this Act have been  
23 furnished to all persons, agencies, officials, or entities to which  
24 they are required to be furnished under Section 59, Article XVI,  
25 Texas Constitution, and Chapter 313, Government Code.

26 (b) The governor has submitted the notice and Act to the  
27 Texas Commission on Environmental Quality.

1           (c) The Texas Commission on Environmental Quality has filed  
2 its recommendations relating to this Act with the governor,  
3 lieutenant governor, and speaker of the house of representatives  
4 within the required time.


5           (d) All requirements of the constitution and laws of this  
6 state and the rules and procedures of the legislature with respect  
7 to the notice, introduction, and passage of this Act are fulfilled  
8 and accomplished.

9           SECTION 22. EFFECTIVE DATE; EXPIRATION DATE. (a) This Act  
10 takes effect September 1, 2003.

11           (b) If the creation of the district is not confirmed at a  
12 confirmation election held under Section 10 of this Act before  
13 September 1, 2005, this Act expires on that date.

# HOUSE ENGROSSMENT

By: Hopson

  
H.B. No. 3601

## A BILL TO BE ENTITLED

### AN ACT

relating to the creation, administration, powers, duties, operation, and financing of the Houston County Groundwater Conservation District.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

#### SECTION 1. DEFINITIONS. In this Act:

(1) "Board" means the board of directors of the Houston County Groundwater Conservation District.

(2) "Designated management area" means an area designated as a management area under Section 35.004, Water Code.

(3) "Director" means a member of the board.

(4) "District" means the Houston County Groundwater Conservation District.

SECTION 2. CREATION. (a) A groundwater conservation district, to be known as the Houston County Groundwater Conservation District, is created in Houston County, subject to approval at a confirmation election under Section 10 of this Act.

(b) The district is a governmental agency and a political subdivision of this state.

SECTION 3. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) The district is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

1 (c) The district is created to:

2 (1) provide for the protection, recharging, and  
3 prevention of waste of groundwater in the Houston County area;

4 (2) control subsidence caused by the withdrawal of  
5 water from the groundwater reservoirs in that area; and

6 (3) regulate the transport of groundwater out of the  
7 boundaries of the district.

8 (d) All of the land and other property included within the  
9 boundaries of the district will be benefited by the works and  
10 projects that are to be accomplished by the district under powers  
11 conferred by Section 59, Article XVI, Texas Constitution.

12 SECTION 4. BOUNDARIES. The boundaries of the district are  
13 coextensive with the boundaries of Houston County, Texas.

14 SECTION 5. APPLICABILITY OF OTHER LAW. This Act prevails  
15 over any provision of general law that is in conflict or  
16 inconsistent with this Act, including any provision of Chapter 36,  
17 Water Code.

18 SECTION 6. BOARD OF DIRECTORS. (a) The district is  
19 governed by a board of nine directors.

20 (b) Temporary directors are appointed under Section 7 of  
21 this Act and serve until initial directors are elected under  
22 Section 10 of this Act.

23 (c) Four of the initial directors serve until the first  
24 election of permanent directors under Section 11 of this Act. Five  
25 of the initial directors serve until the second election of  
26 permanent directors under Section 11 of this Act.

27 (d) Permanent directors serve staggered four-year terms.

1           (e) Each director, including temporary directors, must  
2     qualify to serve as director in the manner provided by Section  
3     36.055, Water Code.

4           (f) A director may serve consecutive terms.

5           (g) If there is a vacancy in the office of temporary  
6     director, the Houston County Commissioners Court shall appoint a  
7     person to fill the vacancy in accordance with the appointment  
8     method under Section 7 of this Act.

9           (h) A director is entitled to receive fees of office of not  
10    more than \$50 a day for each day the director actually spends  
11    performing the duties of a director. The fees of office may not  
12    exceed \$3,000 a year.

13          (i) The board may authorize a director to receive  
14    reimbursement for the director's reasonable expenses incurred  
15    while engaging in activities on behalf of the board.

16          (j) A majority vote of a quorum is required for board  
17    action. If there is a tie vote, the proposed action fails.

18          SECTION 7. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Not  
19    later than the 45th day after the effective date of this Act:

20               (1) the Houston County Commissioners Court shall  
21    appoint two temporary directors from each of the four commissioners  
22    precincts to represent the precincts in which they reside; and

23               (2) the county judge of Houston County shall appoint  
24    one temporary director who resides in the district to represent the  
25    district at large.

26          (b) At least one of the temporary directors must represent  
27    the interests of rural water suppliers in the district, and one of

1 the temporary directors must represent agricultural interests in  
2 the district.

3 SECTION 8. ORGANIZATIONAL MEETING. As soon as practicable  
4 after all the temporary directors have qualified according to  
5 Section 6(e) of this Act, a majority of the temporary directors  
6 shall convene the organizational meeting of the district at a  
7 location within the district agreeable to a majority of the  
8 directors. If no location can be agreed upon, the organizational  
9 meeting shall be at the Houston County Courthouse.

10 SECTION 9. METHOD OF ELECTING DIRECTORS: COMMISSIONERS  
11 PRECINCTS. (a) The directors of the district shall be elected  
12 according to the commissioners precinct method as provided by this  
13 section.

14 (b) One director shall be elected by the voters of the  
15 entire district, and two directors shall be elected from each  
16 county commissioners precinct by the voters of that precinct.

17 (c) Except as provided by Subsection (e) of this section, to  
18 be eligible to be a candidate for or to serve as director at large, a  
19 person must be a registered voter in the district. To be a  
20 candidate for or to serve as director from a county commissioners  
21 precinct, a person must be a registered voter of that precinct.

22 (d) A person shall indicate on the application for a place  
23 on the ballot:

24 (1) the precinct that the person seeks to represent;  
25 or

26 (2) that the person seeks to represent the district at  
27 large.

1           (e) When the boundaries of the county commissioners  
2 precincts are redrawn after each federal decennial census to  
3 reflect population changes, a director in office on the effective  
4 date of the change, or a director elected or appointed before the  
5 effective date of the change whose term of office begins on or after  
6 the effective date of the change, shall serve in the precinct to  
7 which elected or appointed even though the change in boundaries  
8 places the person's residence outside the precinct for which the  
9 person was elected or appointed.

10           SECTION 10. CONFIRMATION AND INITIAL DIRECTORS' ELECTION.

11       (a) The temporary directors shall call and hold an election to  
12 confirm the creation of the district.

13       (b) At the confirmation and initial directors' election,  
14 the temporary directors shall have placed on the ballot the name of  
15 any candidate filing for an initial director's position and blank  
16 spaces to write in the names of other persons. A temporary director  
17 who is eligible to be a candidate under Section 9 of this Act may  
18 file for a position as an initial director.

19       (c) Section 41.001(a), Election Code, does not apply to a  
20 confirmation and initial directors' election held as provided by  
21 this section.

22       (d) Except as provided by this section, a confirmation and  
23 initial directors' election must be conducted as provided by  
24 Sections 36.017(b)-(i), Water Code, and the Election Code.

25       (e) The two initial directors elected to represent each  
26 commissioners precinct shall draw lots to decide which of the two  
27 directors shall serve a term lasting until the first regularly



1 scheduled election of directors under Section 11 of this Act and  
2 which of the two directors shall serve until the second regularly  
3 scheduled election of directors. The at-large director shall serve  
4 until the second regularly scheduled election of directors.

5 (f) If the establishment of the district is not confirmed at  
6 an election held under this section before September 1, 2005, the  
7 district is dissolved, except that:

8 (1) any debts incurred shall be paid;

9 (2) any assets that remain after the payment of debts  
10 shall be transferred to Houston County; and

11 (3) the organization of the district shall be  
12 maintained until all debts are paid and remaining assets are  
13 transferred.

14 SECTION 11. ELECTION OF DIRECTORS. (a) On the first  
15 Saturday in May of the first even-numbered year after the year in  
16 which the district is authorized to be created at a confirmation  
17 election, an election shall be held in the district for the election  
18 of four directors for the positions held by the four initial  
19 directors serving shorter terms from the confirmation election.

20 (b) On the first Saturday in May of each subsequent  
21 even-numbered year following the election, the appropriate number  
22 of directors shall be elected.

23 SECTION 12. GENERAL POWERS. Except as otherwise provided  
24 by this Act, the district has all of the rights, powers, privileges,  
25 authority, functions, and duties provided by the general law of  
26 this state, including Chapter 36, Water Code, applicable to  
27 groundwater conservation districts created under Section 59,

Article XVI, Texas Constitution.

SECTION 13. LIMITATION ON TAXATION. The district may not impose an ad valorem tax at a rate that exceeds three cents on each \$100 of assessed valuation of taxable property in the district.

SECTION 14. FEES. (a) The board may by rule impose reasonable fees on each well:

(1) for which a permit is issued by the district; and

(2) that is not exempt from district regulation.

(b) A production fee may be based on:

(1) the size of column pipe used by the well; or

(2) the amount of water actually withdrawn from the well, or the amount authorized or anticipated to be withdrawn.

(c) The board shall base the initial production fee on the criteria listed in Subsection (b)(2) of this section. The initial production fee:

(1) may not exceed:

(A) \$0.25 per acre-foot for water used for agricultural irrigation; or

(B) \$0.0425 per thousand gallons for water used for any other purpose; and

(2) may be increased at a cumulative rate not to exceed three percent per year.

(d) In addition to the production fee authorized under this section, the district may assess an export fee on groundwater from a well that is produced for transport outside the district.

(e) Fees authorized by this section may be:

(1) assessed annually; and

1           (2)   used to pay the cost of district operations.

2           SECTION 15. GROUNDWATER WELLS UNDER RAILROAD COMMISSION  
3 JURISDICTION.   (a)   Except as provided by this section, a  
4 groundwater well drilled or operated within the district under a  
5 permit issued by the Railroad Commission of Texas is under the  
6 exclusive jurisdiction of the railroad commission and is exempt  
7 from regulation by the district.

8           (b)   Groundwater produced in an amount authorized by a  
9 railroad commission permit may be used within or exported from the  
10 district without a permit from the district.

11          (c)   To the extent groundwater is produced in excess of  
12 railroad commission authorization, the holder of the railroad  
13 commission permit:

14           (1)   shall apply to the district for the appropriate  
15 permit for the excess production; and

16           (2)   is subject to the applicable regulatory fees.

17          (d)   The district may impose a production fee or an export  
18 fee on groundwater produced from a well that was drilled to support  
19 mining activities and that is otherwise exempt from regulation by  
20 the district under Subsection (a) of this section if that  
21 groundwater is used for municipal purposes or by a public utility.  
22 Any fee imposed under this subsection may not exceed the fee imposed  
23 on other groundwater producers in the district.

24          SECTION 16. EXEMPTION FROM FEES. (a) Except as provided by  
25 Subsection (b) of this section, the district may not assess a fee on  
26 a well drilled by a nonprofit rural water supply corporation, water  
27 district, or other political subdivision if the well's production

1 is for use within the district.

2 (b) The district by emergency order of the board may impose  
3 a reasonable and temporary production fee on a well described by  
4 Subsection (a) of this section if:

5 (1) severe drought or other district emergency makes  
6 the fee necessary; and

7 (2) the term of the order does not exceed 180 days.

8 SECTION 17. LIMITATION ON INDEBTEDNESS. The district may  
9 issue bonds and notes under Subchapter F, Chapter 36, Water Code,  
10 except that the total indebtedness created by that issuance may not  
11 exceed \$500,000 at any time.

12 SECTION 18. PROHIBITION ON DISTRICT PURCHASE, SALE,  
13 TRANSPORT, OR DISTRIBUTION OF WATER. The district may not  
14 purchase, sell, transport, or distribute surface water or  
15 groundwater for any purpose.

16 SECTION 19. PROHIBITION ON DISTRICT USE OF EMINENT DOMAIN  
17 POWERS. The district may not exercise the power of eminent domain  
18 under Section 36.105, Water Code.

19 SECTION 20. REGIONAL COOPERATION. To provide for regional  
20 continuity, the district shall:

21 (1) participate as needed in coordination meetings  
22 with other groundwater districts in its designated management area;

23 (2) coordinate the collection of data with other  
24 groundwater conservation districts in its designated management  
25 area in such a way as to achieve relative uniformity of data type  
26 and quality;

27 (3) coordinate efforts to monitor water quality with

1 other groundwater conservation districts in its designated  
2 management area, local governments, and state agencies;

3 (4) provide groundwater level data to other  
4 groundwater conservation districts in its designated management  
5 area;

6 (5) investigate any groundwater or aquifer pollution  
7 with the intention of locating its source;

8 (6) notify other groundwater conservation districts  
9 in its designated management area and all appropriate agencies of  
10 any groundwater pollution detected;

11 (7) annually provide to other groundwater  
12 conservation districts in its designated management area an  
13 inventory of water wells and an estimate of groundwater production  
14 within the district; and

15 (8) include other groundwater conservation districts  
16 in its designated management area on the mailing lists for district  
17 newsletters, seminars, public education events, news articles, and  
18 field days.

19 SECTION 21. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.

20 (a) The legal notice of the intention to introduce this Act,  
21 setting forth the general substance of this Act, has been published  
22 as provided by law, and the notice and a copy of this Act have been  
23 furnished to all persons, agencies, officials, or entities to which  
24 they are required to be furnished under Section 59, Article XVI,  
25 Texas Constitution, and Chapter 313, Government Code.

26 (b) The governor has submitted the notice and Act to the  
27 Texas Commission on Environmental Quality.

1           (c) The Texas Commission on Environmental Quality has filed  
2 its recommendations relating to this Act with the governor,  
3 lieutenant governor, and speaker of the house of representatives  
4 within the required time.

5           (d) All requirements of the constitution and laws of this  
6 state and the rules and procedures of the legislature with respect  
7 to the notice, introduction, and passage of this Act are fulfilled  
8 and accomplished.

9           SECTION 22. EFFECTIVE DATE; EXPIRATION DATE. (a) This Act  
10 takes effect September 1, 2003.

11           (b) If the creation of the district is not confirmed at a  
12 confirmation election held under Section 10 of this Act before  
13 September 1, 2005, this Act expires on that date.

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION**

**May 10, 2003**

**TO:** Honorable Robert Puente, Chair, House Committee on Natural Resources

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: HB3601** by Hopson (Relating to the creation, administration, powers, duties, operation, and financing of the Houston County Groundwater Conservation District.), **Committee Report 1st House, Substituted**

<b>No fiscal implication to the State is anticipated.</b>
---

**Local Government Impact**

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House as to its probable fiscal implication on units of local government.

**Source Agencies:**

**LBB Staff:** JK, CL

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION**

**April 26, 2003**

**TO:** Honorable Robert Puente, Chair, House Committee on Natural Resources

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: HB3601** by Hopson (Relating to the creation, administration, powers, duties, operation, and financing of the Houston County Groundwater Conservation District.), **As Introduced**

<b>No fiscal implication to the State is anticipated.</b>
---

**Local Government Impact**

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House as to its probable fiscal implication on units of local government.

**Source Agencies:**

**LBB Staff:** JK, CL

2



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**WATER DEVELOPMENT POLICY IMPACT STATEMENT**

**78TH LEGISLATIVE REGULAR SESSION**

**May 10, 2003**

**TO:** Honorable Robert Puente, Chair, House Committee on Natural Resources

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: HB3601** by Hopson (Relating to the creation, administration, powers, duties, operation, and financing of the Houston County Groundwater Conservation District.), **Committee Report 1st House, Substituted**

The Legislative Budget Board in cooperation with the Water Development Board (TWDB) and Texas Commission on Environmental Quality (TCEQ), has determined the following:

Subject to a confirmation election, the bill creates the Houston County Groundwater Conservation District (District) providing for the powers, duties, administration, operations and financing of the District. The bill authorizes the District with the powers and duties of Texas Water Code, Chapter 36, related to the general law for Groundwater Conservation Districts (GCDs).

**1) Population** - The boundaries of the proposed district are coextensive with the boundary of Houston County. The population of the proposed district in the Year 2000 Census was 23,185 residents. Population projections developed by the Texas Water Development Board indicate the population of the proposed district should increase to approximately 23,491 by the year 2020.

**2) Location & Size** - The District's boundaries would be coextensive with the boundaries of Houston County. Houston County is not located within a Priority Groundwater Management Area designated by the TCEQ.

**3) Powers** - Same as general law GCDs under Texas Water Code, Chapter 36 with some limitations as noted below.

**4) District Finances** - Same as general law GCDs under Texas Water Code, Chapter 36, including issuance of bonds and notes, levying of maintenance tax, assessing of production fees, export fees, and administrative fees. The total indebtedness of the district as created by the issuance of bonds or notes under Chapter 36 is limited to \$500,000, different from general law in Chapter 36 which does not provide a cap on indebtedness. Similar to general law GCDs, the District would be authorized to assess annual production fees on each well for which a permit is issued by the District. District production fees would be based on the size of the column pipe, the amount of water actually withdrawn from wells or the amount authorized to be withdrawn. The fees may not exceed \$0.25 per acre-foot for water used for agricultural purposes and \$0.0425 per 1000 gallons of water for any purpose. Production fees may be increased at a cumulative rate not to exceed 3 percent per year. Under general law, annual production fees may not exceed \$1 per acre-foot for water used for agricultural purposes or \$10 per acre-foot for water used for any other purpose. Similar to general law GCDs, the District may assess an export fee for groundwater produced from a well for transport out of the district in addition to the production fee. Export fees may be assessed annually and used to pay the cost of district operations. The District may not assess a fee, except during a drought or other district emergency, on a well drilled by a nonprofit water supply corporation, water district, or other political subdivision if the well's production is for use within the District.

3

**5) Board of Directors** - The District would be governed by a board of nine elected directors serving staggered four-year terms. Unlike general law GCDs, directors would be elected according to the commissioners precinct method with two directors elected from each commissioners precinct and one director elected at-large. The temporary directors are responsible for scheduling and conducting the District's confirmation and initial directors election. Eight temporary directors are appointed by the Commissioners Court of Houston County and one temporary director is appointed by the County Judge for Houston County. The appointments are to include one representative of rural water supply interests and one representative of agricultural interests in the District. Initial directors would be elected at the confirmation election if the District is confirmed by the voters. Four initial directors would serve until the first permanent directors election and the other five initial directors would serve until the second permanent directors election. The initial directors in each precinct would draw lots to determine which one would serve until the first permanent directors election and which one would serve until the second permanent directors election. In May of the first even-numbered year after the year in which the District is confirmed by election, four permanent directors would be elected. The appropriate number of directors would then be elected in May of each subsequent second year. General law GCDs under Texas Water Code, Chapter 36, have 5 to 11 directors elected by the general precinct method.

**6) Eminent Domain** - Unlike general law GCDs under Texas Water Code, Chapter 36, the District is not authorized to exercise the power of eminent domain.

**7) Ability to Tax** - Similar to general law GCDs under Texas Water Code, Chapter 36, including the levy of taxes for the repayment of bonds or notes and the levy of a maintenance tax. Both types of taxes are subject to voter authorization. The District may not may not levy a tax that exceeds \$0.03 per \$100 of assessed valuation. Under Texas Water Code, Chapter 36, the maintenance tax for general law GCDs may not exceed \$0.50 per \$100 assessed valuation and the tax rate for the repayment of bonds or notes is not limited.

**8) Overlapping Services** - There are no other GCDs in Houston County.

**9) Exclusion and Addition of Territory** - As with general law for GCDs, there are no provisions to exclude territory.

**10) Adequacy of Boundary Description** - The District's boundaries would be the same as the county boundaries of Houston County and form a closure.

**11) Comments on Powers /Duties Different from Similar Types of Districts** - District directors are entitled to receive fees of office of not more that \$50 a day for each day spends performing duties as a director. The fees of office may not exceed \$3,000. These fees of office are less than those authorized under the general law which provide for \$150 per day and a limit of \$9,000 per year. Similar to general law GCDs, water wells drilled or operated under Railroad Commission of Texas permits are exempted from District regulation except where water production exceeds the Commission's permit. Unlike general law GCDs, the District may assess production or export fees for water produced from mining activities otherwise exempted from regulation if the water is used for municipal purposes or by a public utility. Unlike general law GCDs which are not required to grandfather existing wells, the District may not require a permit for a well completed prior to the confirmation of the District. Alteration of a well may be permitted after the confirmation date if the production is increased. Unlike general law GCDs, the District may not purchase, sell, transport or distribute surface water or groundwater for any purpose. Differing from the requirements of general law, the District is subject to more stringent requirements for cooperation with other groundwater districts within the same designated groundwater management area. These requirements include coordinating data collection, monitoring, and investigations; sharing data; and notification of detections of pollution. If passed, the Act would become effective on September 1, 2001. The Act would expire if the District has not been confirmed at an election held before on September 1, 2005.

4

**5) Board of Directors** - The District would be governed by a board of nine elected directors serving staggered four-year terms. Unlike general law GCDs, directors would be elected according to the commissioners precinct method with two directors elected from each commissioners precinct and one director elected at-large. The temporary directors are responsible for scheduling and conducting the District's confirmation and initial directors election. Eight temporary directors are appointed by the Commissioners Court of Houston County and one temporary director is appointed by the County Judge for Houston County. The appointments are to include one representative of rural water supply interests and one representative of agricultural interests in the District. Initial directors would be elected at the confirmation election if the District is confirmed by the voters. Four initial directors would serve until the first permanent directors election and the other five initial directors would serve until the second permanent directors election. The initial directors in each precinct would draw lots to determine which one would serve until the first permanent directors election and which one would serve until the second permanent directors election. In May of the first even-numbered year after the year in which the District is confirmed by election, four permanent directors would be elected. The appropriate number of directors would then be elected in May of each subsequent second year. General law GCDs under Texas Water Code, Chapter 36, have 5 to 11 directors elected by the general precinct method.

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**10) Adequacy of Boundary Description** - The District's boundaries would be the same as the county boundaries of Houston County and form a closure.

**11) Comments on Powers /Duties Different from Similar Types of Districts** - District directors are entitled to receive fees of office of not more than \$50 a day for each day spends performing duties as a director. The fees of office may not exceed \$3,000. These fees of office are less than those authorized under the general law which provide for \$150 per day and a limit of \$9,000 per year. Similar to general law GCDs, water wells drilled or operated under Railroad Commission of Texas permits are exempted from District regulation except where water production exceeds the Commission's permit. Unlike general law GCDs, the District may assess production or export fees for water produced from mining activities otherwise exempted from regulation if the water is used for municipal purposes or by a public utility. Unlike general law GCDs which are not required to grandfather existing wells, the District may not require a permit for a well completed prior to the confirmation of the District. Alteration of a well may be permitted after the confirmation date if the production is increased. Unlike general law GCDs, the District may not purchase, sell, transport or distribute surface water or groundwater for any purpose. Differing from the requirements of general law, the District is subject to more stringent requirements for cooperation with other groundwater districts within the same designated groundwater management area. These requirements include coordinating data collection, monitoring, and investigations; sharing data; and notification of detections of pollution. If passed, the Act would become effective on September 1, 2001. The Act would expire if the District has not been confirmed at an election held before on September 1, 2005.

7

**12) TCEQ Supervision** - Same as for general law GCDs, including bond review authority. The TCEQ's supervision authority as it is related to the District's development and implementation of a management plan would be the same as for general law GCDs. As with general law GCDs, the District would not have to comply with TCEQ financial auditing requirements.

**13) State Water Plan Objectives** - Local groundwater resources provided approximately 43 percent of the district's water use in the year 2000. Municipal water use accounted for 59 percent of the annual groundwater use. The remaining groundwater use was split roughly between irrigated agriculture and livestock raising. Board staff finds that creation of the proposed district is not in conflict with the State Water Plan objectives of promoting the efficient use of local groundwater resources and the implementation of practices and programs to effectively manage local groundwater resources.

**Source Agencies:** 582 Commission on Environmental Quality, 580 Water Development Board  
**LBB Staff:** JK, CL

8

1-1 By: Hopson (Senate Sponsor - Ogden) H.B. No. 3601  
1-2 (In the Senate - Received from the House May 24, 2003;  
1-3 May 24, 2003, read first time and referred to Committee on Natural  
1-4 Resources; May 26, 2003, reported favorably by the following vote:  
1-5 Yeas 7, Nays 0; May 26, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the creation, administration, powers, duties,  
1-9 operation, and financing of the Houston County Groundwater  
1-10 Conservation District.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. DEFINITIONS. In this Act:

1-13 (1) "Board" means the board of directors of the  
1-14 Houston County Groundwater Conservation District.

1-15 (2) "Designated management area" means an area  
1-16 designated as a management area under Section 35.004, Water Code.

1-17 (3) "Director" means a member of the board.

1-18 (4) "District" means the Houston County Groundwater  
1-19 Conservation District.

1-20 SECTION 2. CREATION. (a) A groundwater conservation  
1-21 district, to be known as the Houston County Groundwater  
1-22 Conservation District, is created in Houston County, subject to  
1-23 approval at a confirmation election under Section 10 of this Act.

1-24 (b) The district is a governmental agency and a political  
1-25 subdivision of this state.

1-26 SECTION 3. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The  
1-27 district is created to serve a public use and benefit.

1-28 (b) The district is created under and is essential to  
1-29 accomplish the purposes of Section 59, Article XVI, Texas  
1-30 Constitution.

1-31 (c) The district is created to:

1-32 (1) provide for the protection, recharging, and  
1-33 prevention of waste of groundwater in the Houston County area;

1-34 (2) control subsidence caused by the withdrawal of  
1-35 water from the groundwater reservoirs in that area; and

1-36 (3) regulate the transport of groundwater out of the  
1-37 boundaries of the district.

1-38 (d) All of the land and other property included within the  
1-39 boundaries of the district will be benefited by the works and  
1-40 projects that are to be accomplished by the district under powers  
1-41 conferred by Section 59, Article XVI, Texas Constitution.

1-42 SECTION 4. BOUNDARIES. The boundaries of the district are  
1-43 coextensive with the boundaries of Houston County, Texas.

1-44 SECTION 5. APPLICABILITY OF OTHER LAW. This Act prevails  
1-45 over any provision of general law that is in conflict or  
1-46 inconsistent with this Act, including any provision of Chapter 36,  
1-47 Water Code.

1-48 SECTION 6. BOARD OF DIRECTORS. (a) The district is  
1-49 governed by a board of nine directors.

1-50 (b) Temporary directors are appointed under Section 7 of  
1-51 this Act and serve until initial directors are elected under  
1-52 Section 10 of this Act.

1-53 (c) Four of the initial directors serve until the first  
1-54 election of permanent directors under Section 11 of this Act. Five  
1-55 of the initial directors serve until the second election of  
1-56 permanent directors under Section 11 of this Act.

1-57 (d) Permanent directors serve staggered four-year terms.

1-58 (e) Each director, including temporary directors, must  
1-59 qualify to serve as director in the manner provided by Section  
1-60 36.055, Water Code.

1-61 (f) A director may serve consecutive terms.

1-62 (g) If there is a vacancy in the office of temporary  
1-63 director, the Houston County Commissioners Court shall appoint a  
1-64 person to fill the vacancy in accordance with the appointment

method under Section 7 of this Act.

(h) A director is entitled to receive fees of office of not more than \$50 a day for each day the director actually spends performing the duties of a director. The fees of office may not exceed \$3,000 a year.

(i) The board may authorize a director to receive reimbursement for the director's reasonable expenses incurred while engaging in activities on behalf of the board.

(j) A majority vote of a quorum is required for board action. If there is a tie vote, the proposed action fails.

SECTION 7. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Not later than the 45th day after the effective date of this Act:

(1) the Houston County Commissioners Court shall appoint two temporary directors from each of the four commissioners precincts to represent the precincts in which they reside; and

(2) the county judge of Houston County shall appoint one temporary director who resides in the district to represent the district at large.

(b) At least one of the temporary directors must represent the interests of rural water suppliers in the district, and one of the temporary directors must represent agricultural interests in the district.

SECTION 8. ORGANIZATIONAL MEETING. As soon as practicable after all the temporary directors have qualified according to Section 6(e) of this Act, a majority of the temporary directors shall convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. If no location can be agreed upon, the organizational meeting shall be at the Houston County Courthouse.

SECTION 9. METHOD OF ELECTING DIRECTORS: COMMISSIONERS PRECINCTS. (a) The directors of the district shall be elected according to the commissioners precinct method as provided by this section.

(b) One director shall be elected by the voters of the entire district, and two directors shall be elected from each county commissioners precinct by the voters of that precinct.

(c) Except as provided by Subsection (e) of this section, to be eligible to be a candidate for or to serve as director at large, a person must be a registered voter in the district. To be a candidate for or to serve as director from a county commissioners precinct, a person must be a registered voter of that precinct.

(d) A person shall indicate on the application for a place on the ballot:

(1) the precinct that the person seeks to represent; or

(2) that the person seeks to represent the district at large.

(e) When the boundaries of the county commissioners precincts are redrawn after each federal decennial census to reflect population changes, a director in office on the effective date of the change, or a director elected or appointed before the effective date of the change whose term of office begins on or after the effective date of the change, shall serve in the precinct to which elected or appointed even though the change in boundaries places the person's residence outside the precinct for which the person was elected or appointed.

SECTION 10. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. (a) The temporary directors shall call and hold an election to confirm the creation of the district.

(b) At the confirmation and initial directors' election, the temporary directors shall have placed on the ballot the name of any candidate filing for an initial director's position and blank spaces to write in the names of other persons. A temporary director who is eligible to be a candidate under Section 9 of this Act may file for a position as an initial director.

(c) Section 41.001(a), Election Code, does not apply to a confirmation and initial directors' election held as provided by this section.

(d) Except as provided by this section, a confirmation and

initial directors' election must be conducted as provided by Sections 36.017(b)-(i), Water Code, and the Election Code.

(e) The two initial directors elected to represent each commissioners precinct shall draw lots to decide which of the two directors shall serve a term lasting until the first regularly scheduled election of directors under Section 11 of this Act and which of the two directors shall serve until the second regularly scheduled election of directors. The at-large director shall serve until the second regularly scheduled election of directors.

(f) If the establishment of the district is not confirmed at an election held under this section before September 1, 2005, the district is dissolved, except that:

(1) any debts incurred shall be paid;  
 (2) any assets that remain after the payment of debts shall be transferred to Houston County; and

(3) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred.

SECTION 11. ELECTION OF DIRECTORS. (a) On the first Saturday in May of the first even-numbered year after the year in which the district is authorized to be created at a confirmation election, an election shall be held in the district for the election of four directors for the positions held by the four initial directors serving shorter terms from the confirmation election.

(b) On the first Saturday in May of each subsequent even-numbered year following the election, the appropriate number of directors shall be elected.

SECTION 12. GENERAL POWERS. Except as otherwise provided by this Act, the district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution.

SECTION 13. LIMITATION ON TAXATION. The district may not impose an ad valorem tax at a rate that exceeds three cents on each \$100 of assessed valuation of taxable property in the district.

SECTION 14. FEES. (a) The board may by rule impose reasonable fees on each well:

(1) for which a permit is issued by the district; and  
 (2) that is not exempt from district regulation.  
 (b) A production fee may be based on:  
 (1) the size of column pipe used by the well; or  
 (2) the amount of water actually withdrawn from the well, or the amount authorized or anticipated to be withdrawn.

(c) The board shall base the initial production fee on the criteria listed in Subsection (b)(2) of this section. The initial production fee:

(1) may not exceed:  
 (A) \$0.25 per acre-foot for water used for agricultural irrigation; or  
 (B) \$0.0425 per thousand gallons for water used for any other purpose; and  
 (2) may be increased at a cumulative rate not to exceed three percent per year.

(d) In addition to the production fee authorized under this section, the district may assess an export fee on groundwater from a well that is produced for transport outside the district.

(e) Fees authorized by this section may be:  
 (1) assessed annually; and  
 (2) used to pay the cost of district operations.

SECTION 15. GROUNDWATER WELLS UNDER RAILROAD COMMISSION JURISDICTION. (a) Except as provided by this section, a groundwater well drilled or operated within the district under a permit issued by the Railroad Commission of Texas is under the exclusive jurisdiction of the railroad commission and is exempt from regulation by the district.

(b) Groundwater produced in an amount authorized by a railroad commission permit may be used within or exported from the district without a permit from the district.

(c) To the extent groundwater is produced in excess of railroad commission authorization, the holder of the railroad commission permit:

(1) shall apply to the district for the appropriate permit for the excess production; and

(2) is subject to the applicable regulatory fees.

(d) The district may impose a production fee or an export fee on groundwater produced from a well that was drilled to support mining activities and that is otherwise exempt from regulation by the district under Subsection (a) of this section if that groundwater is used for municipal purposes or by a public utility. Any fee imposed under this subsection may not exceed the fee imposed on other groundwater producers in the district.

SECTION 16. EXEMPTION FROM FEES. (a) Except as provided by Subsection (b) of this section, the district may not assess a fee on a well drilled by a nonprofit rural water supply corporation, water district, or other political subdivision if the well's production is for use within the district.

(b) The district by emergency order of the board may impose a reasonable and temporary production fee on a well described by Subsection (a) of this section if:

(1) severe drought or other district emergency makes the fee necessary; and

(2) the term of the order does not exceed 180 days.

SECTION 17. LIMITATION ON INDEBTEDNESS. The district may issue bonds and notes under Subchapter F, Chapter 36, Water Code, except that the total indebtedness created by that issuance may not exceed \$500,000 at any time.

SECTION 18. PROHIBITION ON DISTRICT PURCHASE, SALE, TRANSPORT, OR DISTRIBUTION OF WATER. The district may not purchase, sell, transport, or distribute surface water or groundwater for any purpose.

SECTION 19. PROHIBITION ON DISTRICT USE OF EMINENT DOMAIN POWERS. The district may not exercise the power of eminent domain under Section 36.105, Water Code.

SECTION 20. REGIONAL COOPERATION. To provide for regional continuity, the district shall:

(1) participate as needed in coordination meetings with other groundwater districts in its designated management area;

(2) coordinate the collection of data with other groundwater conservation districts in its designated management area in such a way as to achieve relative uniformity of data type and quality;

(3) coordinate efforts to monitor water quality with other groundwater conservation districts in its designated management area, local governments, and state agencies;

(4) provide groundwater level data to other groundwater conservation districts in its designated management area;

(5) investigate any groundwater or aquifer pollution with the intention of locating its source;

(6) notify other groundwater conservation districts in its designated management area and all appropriate agencies of any groundwater pollution detected;

(7) annually provide to other groundwater conservation districts in its designated management area an inventory of water wells and an estimate of groundwater production within the district; and

(8) include other groundwater conservation districts in its designated management area on the mailing lists for district newsletters, seminars, public education events, news articles, and field days.

SECTION 21. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.



5-1 (b) The governor has submitted the notice and Act to the  
5-2 Texas Commission on Environmental Quality.

5-3 (c) The Texas Commission on Environmental Quality has filed  
5-4 its recommendations relating to this Act with the governor,  
5-5 lieutenant governor, and speaker of the house of representatives  
5-6 within the required time.

5-7 (d) All requirements of the constitution and laws of this  
5-8 state and the rules and procedures of the legislature with respect  
5-9 to the notice, introduction, and passage of this Act are fulfilled  
5-10 and accomplished.

5-11 SECTION 22. EFFECTIVE DATE; EXPIRATION DATE. (a) This Act  
5-12 takes effect September 1, 2003.

5-13 (b) If the creation of the district is not confirmed at a  
5-14 confirmation election held under Section 10 of this Act before  
5-15 September 1, 2005, this Act expires on that date.

5-16 \* \* \* \* \*

FAVORABLE  
SENATE COMMITTEE REPORT ON

SB SCR SJR SR HB HCR HJR 3601  
By Hopson / Oaden  
(Author/Senate Sponsor)  
5-26-23  
(date)

We, your Committee on NATURAL RESOURCES, to which was referred the attached measure,  
have on 5-24-03, had the same under consideration and I am instructed to report it  
(date of hearing)  
back with the recommendation (s) that it:

- ☒ do pass and be printed  
☐ do pass and be ordered not printed  
☒ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no  
A revised fiscal note was requested. ☐ yes ☒ no  
An actuarial analysis was requested. ☐ yes ☒ no  
Considered by subcommittee. ☐ yes ☒ no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Senator Armbrister, Chair	/			
Senator Jackson, Vice-Chair	/			
Senator Barrientos	/			
Senator Duncan			/	
Senator Estes	/			
Senator Fraser	/			
Senator Hinojosa			/	
Senator Lindsay			/	
Senator Lucio			/	
Senator Shapiro	/			
Senator Staples	/			
TOTAL VOTES	7	0	4	0

COMMITTEE ACTION

☒ §260 Considered in public hearing  
☒ §270 Testimony taken

Holly C. Millant  
COMMITTEE CLERK

[Signature]  
CHAIRMAN

## **BILL ANALYSIS**

Senate Research Center

H.B. 3601  
By: Hopson (Ogden)  
Natural Resources  
5/26/2003  
Engrossed

### **DIGEST AND PURPOSE**

Texas faces a difficult challenge to develop water policies that serve both state and regional interests. The Texas Constitution authorizes the creation of groundwater conservation districts to plan, develop, and regulate the use of water. H.B 3601 creates the Houston County Groundwater Conservation District, subject to approval at a confirmation election, to manage Houston County's groundwater resources.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. DEFINITIONS.

SECTION 2. CREATION.

SECTION 3. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

SECTION 4. BOUNDARIES.

SECTION 5. APPLICABILITY.

SECTION 6. BOARD OF DIRECTORS.

SECTION 7. APPOINTMENT OF TEMPORARY DIRECTORS.

SECTION 8. ORGANIZATIONAL MEETING.

SECTION 9. METHOD OF ELECTING DIRECTORS: COMMISSIONERS PRECINCTS.

SECTION 10. CONFIRMATION AND INITIAL DIRECTORS' ELECTION.

SECTION 11. ELECTION OF DIRECTORS.

SECTION 12. GENERAL POWERS.

SECTION 13. LIMITATION ON TAXATION.

SECTION 14. FEES.

SECTION 15. GROUNDWATER WELLS UNDER RAILROAD COMMISSION JURISDICTION.

SECTION 16. EXEMPTION FROM FEES.

SECTION 17. LIMITATION ON INDEBTEDNESS.

SECTION 18. PROHIBITION ON DISTRICT PURCHASE, SALE, TRANSPORT, OR DISTRIBUTION OF WATER.

SECTION 19. PROHIBITION ON DISTRICT USE OF EMINENT DOMAIN POWERS.

SECTION 20. REGIONAL COOPERATION.

SECTION 21. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.

SECTION 22. EFFECTIVE DATE; EXPIRATION DATE. (a) Effective date: September 1, 2003.

(b) Provides that if the creation of the district is not confirmed at a confirmation election held under Section 10 of this Act before September 1, 2005, this Act expires on that date.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION**

**May 24, 2003**

**TO:** Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: HB3601** by Hopson (Relating to the creation, administration, powers, duties, operation, and financing of the Houston County Groundwater Conservation District.), **As Engrossed**

<b>No fiscal implication to the State is anticipated.</b>
---

**Local Government Impact**

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

**Source Agencies:**

**LBB Staff:** JK, CL

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION**

**May 10, 2003**

**TO:** Honorable Robert Puente, Chair, House Committee on Natural Resources

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: HB3601** by Hopson (Relating to the creation, administration, powers, duties, operation, and financing of the Houston County Groundwater Conservation District.), **Committee Report 1st House, Substituted**

<b>No fiscal implication to the State is anticipated.</b>
---

**Local Government Impact**

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House as to its probable fiscal implication on units of local government.

**Source Agencies:**

**LBB Staff:** JK, CL

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION**

**April 26, 2003**

**TO:** Honorable Robert Puente, Chair, House Committee on Natural Resources

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: HB3601** by Hopson (Relating to the creation, administration, powers, duties, operation, and financing of the Houston County Groundwater Conservation District.), **As Introduced**

<b>No fiscal implication to the State is anticipated.</b>
---

**Local Government Impact**

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House as to its probable fiscal implication on units of local government.

**Source Agencies:**

**LBB Staff:** JK, CL

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**WATER DEVELOPMENT POLICY IMPACT STATEMENT**

**78TH LEGISLATIVE REGULAR SESSION**

**May 10, 2003**

**TO:** Honorable Robert Puente, Chair, House Committee on Natural Resources

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: HB3601** by Hopson (Relating to the creation, administration, powers, duties, operation, and financing of the Houston County Groundwater Conservation District.), **Committee Report 1st House, Substituted**

The Legislative Budget Board in cooperation with the Water Development Board (TWDB) and Texas Commission on Environmental Quality (TCEQ), has determined the following:

Subject to a confirmation election, the bill creates the Houston County Groundwater Conservation District (District) providing for the powers, duties, administration, operations and financing of the District. The bill authorizes the District with the powers and duties of Texas Water Code, Chapter 36, related to the general law for Groundwater Conservation Districts (GCDs).

**1) Population** - The boundaries of the proposed district are coextensive with the boundary of Houston County. The population of the proposed district in the Year 2000 Census was 23,185 residents. Population projections developed by the Texas Water Development Board indicate the population of the proposed district should increase to approximately 23,491 by the year 2020.

**2) Location & Size** - The District's boundaries would be coextensive with the boundaries of Houston County. Houston County is not located within a Priority Groundwater Management Area designated by the TCEQ.

**3) Powers** - Same as general law GCDs under Texas Water Code, Chapter 36 with some limitations as noted below.

**4) District Finances** - Same as general law GCDs under Texas Water Code, Chapter 36, including issuance of bonds and notes, levying of maintenance tax, assessing of production fees, export fees, and administrative fees. The total indebtedness of the district as created by the issuance of bonds or notes under Chapter 36 is limited to \$500,000, different from general law in Chapter 36 which does not provide a cap on indebtedness. Similar to general law GCDs, the District would be authorized to assess annual production fees on each well for which a permit is issued by the District. District production fees would be based on the size of the column pipe, the amount of water actually withdrawn from wells or the amount authorized to be withdrawn. The fees may not exceed \$0.25 per acre-foot for water used for agricultural purposes and \$0.0425 per 1000 gallons of water for any purpose. Production fees may be increased at a cumulative rate not to exceed 3 percent per year. Under general law, annual production fees may not exceed \$1 per acre-foot for water used for agricultural purposes or \$10 per acre-foot for water used for any other purpose. Similar to general law GCDs, the District may assess an export fee for groundwater produced from a well for transport out of the district in addition to the production fee. Export fees may be assessed annually and used to pay the cost of district operations. The District may not assess a fee, except during a drought or other district emergency, on a well drilled by a nonprofit water supply corporation, water district, or other political subdivision if the well's production is for use within the District.



**5) Board of Directors** - The District would be governed by a board of nine elected directors serving staggered four-year terms. Unlike general law GCDs, directors would be elected according to the commissioners precinct method with two directors elected from each commissioners precinct and one director elected at-large. The temporary directors are responsible for scheduling and conducting the District's confirmation and initial directors election. Eight temporary directors are appointed by the Commissioners Court of Houston County and one temporary director is appointed by the County Judge for Houston County. The appointments are to include one representative of rural water supply interests and one representative of agricultural interests in the District. Initial directors would be elected at the confirmation election if the District is confirmed by the voters. Four initial directors would serve until the first permanent directors election and the other five initial directors would serve until the second permanent directors election. The initial directors in each precinct would draw lots to determine which one would serve until the first permanent directors election and which one would serve until the second permanent directors election. In May of the first even-numbered year after the year in which the District is confirmed by election, four permanent directors would be elected. The appropriate number of directors would then be elected in May of each subsequent second year. General law GCDs under Texas Water Code, Chapter 36, have 5 to 11 directors elected by the general precinct method.

**6) Eminent Domain** - Unlike general law GCDs under Texas Water Code, Chapter 36, the District is not authorized to exercise the power of eminent domain.

**7) Ability to Tax** - Similar to general law GCDs under Texas Water Code, Chapter 36, including the levy of taxes for the repayment of bonds or notes and the levy of a maintenance tax. Both types of taxes are subject to voter authorization. The District may not may not levy a tax that exceeds \$0.03 per \$100 of assessed valuation. Under Texas Water Code, Chapter 36, the maintenance tax for general law GCDs may not exceed \$0.50 per \$100 assessed valuation and the tax rate for the repayment of bonds or notes is not limited.

**8) Overlapping Services** - There are no other GCDs in Houston County.

**9) Exclusion and Addition of Territory** - As with general law for GCDs, there are no provisions to exclude territory.

**10) Adequacy of Boundary Description** - The District's boundaries would be the same as the county boundaries of Houston County and form a closure.

**11) Comments on Powers /Duties Different from Similar Types of Districts** - District directors are entitled to receive fees of office of not more than \$50 a day for each day spends performing duties as a director. The fees of office may not exceed \$3,000. These fees of office are less than those authorized under the general law which provide for \$150 per day and a limit of \$9,000 per year. Similar to general law GCDs, water wells drilled or operated under Railroad Commission of Texas permits are exempted from District regulation except where water production exceeds the Commission's permit. Unlike general law GCDs, the District may assess production or export fees for water produced from mining activities otherwise exempted from regulation if the water is used for municipal purposes or by a public utility. Unlike general law GCDs which are not required to grandfather existing wells, the District may not require a permit for a well completed prior to the confirmation of the District. Alteration of a well may be permitted after the confirmation date if the production is increased. Unlike general law GCDs, the District may not purchase, sell, transport or distribute surface water or groundwater for any purpose. Differing from the requirements of general law, the District is subject to more stringent requirements for cooperation with other groundwater districts within the same designated groundwater management area. These requirements include coordinating data collection, monitoring, and investigations; sharing data; and notification of detections of pollution. If passed, the Act would become effective on September 1, 2001. The Act would expire if the District has not been confirmed at an election held before on September 1, 2005.

**12) TCEQ Supervision** - Same as for general law GCDs, including bond review authority. The TCEQ's supervision authority as it is related to the District's development and implementation of a management plan would be the same as for general law GCDs. As with general law GCDs, the District would not have to comply with TCEQ financial auditing requirements.

**13) State Water Plan Objectives** - Local groundwater resources provided approximately 43 percent of the district's water use in the year 2000. Municipal water use accounted for 59 percent of the annual groundwater use. The remaining groundwater use was split roughly between irrigated agriculture and livestock raising. Board staff finds that creation of the proposed district is not in conflict with the State Water Plan objectives of promoting the efficient use of local groundwater resources and the implementation of practices and programs to effectively manage local groundwater resources.

**Source Agencies:** 580 Water Development Board, 582 Commission on Environmental Quality

**LBB Staff:** JK, CL

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**WATER DEVELOPMENT POLICY IMPACT STATEMENT**

**78TH LEGISLATIVE REGULAR SESSION**

**April 29, 2003**

**TO:** Honorable Robert Puente, Chair, House Committee on Natural Resources

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: HB3601** by Hopson (Relating to the creation, administration, powers, duties, operation, and financing of the Houston County Groundwater Conservation District.), **As Introduced**

The Legislative Budget Board in cooperation with the Water Development Board (TWDB) and Texas Commission on Environmental Quality (TCEQ), has determined the following:

Subject to a confirmation election, the bill creates the Houston County Groundwater Conservation District (District) providing for the powers, duties, administration, operations and financing of the District. The bill authorizes the District with the powers and duties of Texas Water Code, Chapter 36, related to the general law for Groundwater Conservation Districts (GCDs).

**1) Population** - The boundaries of the proposed district are coextensive with the boundary of Houston County. The population of the proposed district in the Year 2000 Census was 23,185 residents. Population projections developed by the Texas Water Development Board indicate the population of the proposed district should increase to approximately 23,491 by the year 2020.

**2) Location & Size** - The District's boundaries would be coextensive with the boundaries of Houston County. Houston County is not located within a Priority Groundwater Management Area designated by the TCEQ.

**3) Powers** - Same as general law GCDs under Texas Water Code, Chapter 36 with some limitations as noted below.

**4) District Finances** - Same as general law GCDs under Texas Water Code, Chapter 36, including issuance of bonds and notes, levying of maintenance tax, assessing of production fees, export fees, and administrative fees. The total indebtedness of the district as created by the issuance of bonds or notes under Chapter 36 is limited to \$500,000, different from general law in Chapter 36 which does not provide a cap on indebtedness. Similar to general law GCDs, the District would be authorized to assess annual production fees on each well for which a permit is issued by the District. District production fees would be based on the size of the column pipe, the amount of water actually withdrawn from wells or the amount authorized to be withdrawn. The fees may not exceed \$0.25 per acre-foot for water used for agricultural purposes and \$0.0425 per 1000 gallons of water for any purpose. Production fees may be increased at a cumulative rate not to exceed 3 percent per year. Under general law, annual production fees may not exceed \$1 per acre-foot for water used for agricultural purposes or \$10 per acre-foot for water used for any other purpose. Similar to general law GCDs, the District may assess an export fee for groundwater produced from a well for transport out of the district in addition to the production fee. Export fees may be assessed annually and used to pay the cost of district operations. The District may not assess a fee, except during a drought or other district emergency, on a well drilled by a nonprofit water supply corporation, water district, or other political subdivision if the well's production is for use within the District.

**5) Board of Directors** - The District would be governed by a board of nine elected directors serving staggered four-year terms. Unlike general law GCDs, directors would be elected according to the commissioners precinct method with two directors elected from each commissioners precinct and one director elected at-large. The temporary directors are responsible for scheduling and conducting the District's confirmation and initial directors election. Eight temporary directors are appointed by the Commissioners Court of Houston County and one temporary director is appointed by the County Judge for Houston County. The appointments are to include one representative of rural water supply interests and one representative of agricultural interests in the District. Initial directors would be elected at the confirmation election if the District is confirmed by the voters. Four initial directors would serve until the first permanent directors election and the other five initial directors would serve until the second permanent directors election. The initial directors in each precinct would draw lots to determine which one would serve until the first permanent directors election and which one would serve until the second permanent directors election. In May of the first even-numbered year after the year in which the District is confirmed by election, four permanent directors would be elected. The appropriate number of directors would then be elected in May of each subsequent second year. General law GCDs under Texas Water Code, Chapter 36, have 5 to 11 directors elected by the general precinct method.

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**8) Overlapping Services** - There are no other GCDs in Houston County.

**9) Exclusion and Addition of Territory** - As with general law for GCDs, there are no provisions to exclude territory.

**10) Adequacy of Boundary Description** - The District's boundaries would be the same as the county boundaries of Houston County and form a closure.

**11) Comments on Powers /Duties Different from Similar Types of Districts** - District directors are entitled to receive fees of office of not more than \$50 a day for each day spends performing duties as a director. The fees of office may not exceed \$3,000. These fees of office are less than those authorized under the general law which provide for \$150 per day and a limit of \$9,000 per year. Similar to general law GCDs, water wells drilled or operated under Railroad Commission of Texas permits are exempted from District regulation except where water production exceeds the Commission's permit. Unlike general law GCDs, the District may assess production or export fees for water produced from mining activities otherwise exempted from regulation if the water is used for municipal purposes or by a public utility. Unlike general law GCDs which are not required to grandfather existing wells, the District may not require a permit for a well completed prior to the confirmation of the District. Alteration of a well may be permitted after the confirmation date if the production is increased. Unlike general law GCDs, the District may not purchase, sell, transport or distribute surface water or groundwater for any purpose. Differing from the requirements of general law, the District is subject to more stringent requirements for cooperation with other groundwater districts within the same designated groundwater management area. These requirements include coordinating data collection, monitoring, and investigations; sharing data; and notification of detections of pollution. If passed, the Act would become effective on September 1, 2001. The Act would expire if the District has not been confirmed at an election held before on September 1, 2005.

**12) TCEQ Supervision** - Same as for general law GCDs, including bond review authority. The TCEQ's supervision authority as it is related to the District's development and implementation of a management plan would be the same as for general law GCDs. As with general law GCDs, the District would not have to comply with TCEQ financial auditing requirements.

**13) State Water Plan Objectives** - Local groundwater resources provided approximately 43 percent of the district's water use in the year 2000. Municipal water use accounted for 59 percent of the annual groundwater use. The remaining groundwater use was split roughly between irrigated agriculture and livestock raising. Board staff finds that creation of the proposed district is not in conflict with the State Water Plan objectives of promoting the efficient use of local groundwater resources and the implementation of practices and programs to effectively manage local groundwater resources.

**Source Agencies:** 582 Commission on Environmental Quality, 580 Water Development Board  
**LBB Staff:** JK, CL

## AFFIDAVIT OF PUBLICATION

The State of Texas  
County of Houston

BEFORE ME, the undersigned authority, on this day personally appeared the undersigned,

Billy Clark

of the

Houston County Courier, who swore and affirmed that the attached printed is a true and correct copy of the material of which it purports to be a copy as the same appeared in the respective issue(s) of March 20, 2003

Introducing bill to 78th Legislature

The correct charge for publication is \$25.20

Billy Clark  
Affiant

The above and foregoing sworn to and subscribed before me by the said affiant this

21 day of March A.D. 20 03

### PUBLIC NOTICE

This is to give notice of intent to introduce in the 78th Legislative Regular Session, a bill to be entitled an Act relating to the creation, administration, power, duties, operations, and financing of the Houston County Groundwater Conservation District within the Houston County boundaries of Houston County. The District will not require a permit for wells completed before the District is confirmed; the District will not assess fees on wells drilled by non-profit entities that supply water to a water district or other public agency for the relief of collecting taxes not in excess of one cent on each taxable property will not be capable of exerting the power of eminent domain; will not be capable of purchasing, selling, conveying or distributing surface or groundwater for any purpose; the District may impose reasonable fees for non-exempt wells but the initial fee may not exceed \$0.25 per acre-foot of water used for agricultural irrigation; \$0.0425 per thousand gallons for water used for any other purposes. The District will be created under and is essential to accomplish the purposes of Section 59, Article XVI, of the Texas Constitution. Information regarding this Bill may be obtained from the office of the Houston County Judge.

Robert J. Huston, *Chairman*  
R. B. "Ralph" Marquez, *Commissioner*  
Kathleen Hartnett White, *Commissioner*  
Margaret Hoffman, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

May 1, 2003

The Honorable Tom Craddick  
Texas House of Representatives  
Capitol Station  
PO Box 2910  
Austin, Texas 78768-2910

Re: Responsibility of the Texas Commission on Environmental Quality (TCEQ) Pursuant to Article XVI, Section 59(d), Texas Constitution

HB-3601, as Filed by Representative Charles L. "Chuck" Hopson - Relating to the Creation, Administration, Powers, Duties, Operation, and Financing of Houston County Groundwater Conservation District

Dear Speaker Craddick:

The enclosed comments are provided pursuant to the Constitutional requirements referenced above. Under those requirements, the TCEQ must submit, to the Governor, Lieutenant Governor and Speaker of the House of Representatives, the TCEQ's recommendations on specific legislation affecting water districts. We recommend that these comments be considered in the evaluation of the proposed legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Dale Beebe-Farrow".

Dale Beebe-Farrow, P.E., Director  
Water Supply Division

DBF/DA/sr

Enclosure

cc: The Honorable Robert Puente, Chairman, House Natural Resources Committee  
The Honorable Charles L. "Chuck" Hopson, Texas House of Representatives

**H.B. 3601, as Filed by Representative Charles L. "Chuck" Hopson  
Texas Commission on Environmental Quality Comments**

Subject to a confirmation election, the bill creates the Houston County Groundwater Conservation District (District) providing for the powers, duties, administration, operations and financing of the District. The bill authorizes the District with the powers and duties of Texas Water Code, Chapter 36, related to the general law for Groundwater Conservation Districts (GCDs).

**Purpose.** Same as general law GCDs under Texas Water Code, Chapter 36, to provide for the conservation, preservation, protection, recharging, and prevention of waste of groundwater, and to control subsidence caused by the withdrawal of groundwater. The bill also provides that a purpose of the District is to regulate transport of groundwater out of the District's boundaries.

**Location & Size.** The District's boundaries would be coextensive with the boundaries of Houston County. Houston County is not located within a Priority Groundwater Management Area designated by the TCEQ.

**Powers.** Same as general law GCDs under Texas Water Code, Chapter 36 with some limitations as noted below.

**District Finances.** Same as general law GCDs under Texas Water Code, Chapter 36, including issuance of bonds and notes, levying of maintenance tax, assessing of production fees, export fees, and administrative fees. The total indebtedness of the district as created by the issuance of bonds or notes under Chapter 36 is limited to \$500,000, different from general law in Chapter 36 which does not provide a cap on indebtedness. Similar to general law GCDs, the District would be authorized to assess annual production fees on each well for which a permit is issued by the District. District production fees would be based on the size of the column pipe, the amount of water actually withdrawn from wells or the amount authorized to be withdrawn. The fees may not exceed \$0.25 per acre-foot for water used for agricultural purposes and \$0.0425 per 1000 gallons of water for any purpose. Production fees may be increased at a cumulative rate not to exceed 3 percent per year. Under general law, annual production fees may not exceed \$1 per acre-foot for water used for agricultural purposes or \$10 per acre-foot for water used for any other purpose. Similar to general law GCDs, the District may assess an export fee for groundwater produced from a well for transport out of the district in addition to the production fee. Export fees may be assessed annually and used to pay the cost of district operations. The District may not assess a fee, except during a drought or other district emergency, on a well drilled by a nonprofit water supply corporation, water district, or other political subdivision if the well's production is for use within the District.

**Board of Directors.** The District would be governed by a board of nine elected directors serving staggered four-year terms. Unlike general law GCDs, directors would be elected according to the commissioners precinct method with two directors elected from each commissioners precinct and one director elected at-large. The temporary directors are responsible for scheduling and conducting the District's confirmation and initial directors election. Eight temporary directors are appointed by the Commissioners Court of Houston County and one temporary director is appointed by the County Judge for Houston County. The appointments are to include one representative of rural water supply interests and one representative of agricultural interests in the District. Initial directors would be elected at the confirmation election if the District is confirmed by the voters. Four initial directors would serve until the first permanent directors election and the other five initial directors would serve until the second permanent directors election. The initial directors in each precinct would draw lots to determine which one would serve until the first permanent directors election and which one would serve until the second permanent directors election. In May of the first even-numbered year after the year in which the District is confirmed by election, four permanent directors would



be elected. The appropriate number of directors would then be elected in May of each subsequent second year. General law GCDs under Texas Water Code, Chapter 36, have 5 to 11 directors elected by the general precinct method.

**Eminent Domain.** Unlike general law GCDs under Texas Water Code, Chapter 36, the District is not authorized to exercise the power of eminent domain.

**Ability to Tax.** Similar to general law GCDs under Texas Water Code, Chapter 36, including the levy of taxes for the repayment of bonds or notes and the levy of a maintenance tax. Both types of taxes are subject to voter authorization. The District may not may not levy a tax that exceeds \$0.03 per \$100 of assessed valuation. Under Texas Water Code, Chapter 36, the maintenance tax for general law GCDs may not exceed \$0.50 per \$100 assessed valuation and the tax rate for the repayment of bonds or notes is not limited.

**Overlapping Services.** There are no other GCDs in Houston County.

**Exclusion and Addition of Territory.** As with general law for GCDs, there are no provisions to exclude territory.

**Adequacy of Boundary Description.** The District's boundaries would be the same as the county boundaries of Houston County and form a closure.

**Comments on Powers /Duties Different from Similar Types of Districts.** District directors are entitled to receive fees of office of not more than \$50 a day for each day spends performing duties as a director. The fees of office may not exceed \$3,000. These fees of office are less than those authorized under the general law which provide for \$150 per day and a limit of \$9,000 per year. Similar to general law GCDs, water wells drilled or operated under Railroad Commission of Texas permits are exempted from District regulation except where water production exceeds the Commission's permit. Unlike general law GCDs, the District may assess production or export fees for water produced from mining activities otherwise exempted from regulation if the water is used for municipal purposes or by a public utility. Unlike general law GCDs which are not required to grandfather existing wells, the District may not require a permit for a well completed prior to the confirmation of the District. Alteration of a well may be permitted after the confirmation date if the production is increased. Unlike general law GCDs, the District may not purchase, sell, transport or distribute surface water or groundwater for any purpose. Differing from the requirements of general law, the District is subject to more stringent requirements for cooperation with other groundwater districts within the same designated groundwater management area. These requirements include coordinating data collection, monitoring, and investigations; sharing data; and notification of detections of pollution. If passed, the Act would become effective on September 1, 2003. The Act would expire if the District has not been confirmed at an election held before on September 1, 2005.

**TCEQ Supervision.** Same as for general law GCDs, including bond review authority. The TCEQ's supervision authority as it is related to the District's development and implementation of a management plan would be the same as for general law GCDs. As with general law GCDs, the District would not have to comply with TCEQ financial auditing requirements.

## REQUEST FOR LOCAL & UNCONTESTED CALENDAR PLACEMENT

SENATOR CHRIS HARRIS, CHAIRMAN  
SENATE COMMITTEE ON ADMINISTRATION

Notice is hereby given that HB 3601, by Hopson / Ogden,  
(Bill No.) (Author/Sponsor)  
was heard by the Committee on Natural Resources on 5/24, 2003,  
and reported out with the recommendation that it be placed on the Local and Uncontested Calendar.

Kelly C. Mullen  
(Clerk of the reporting committee)

**IMPORTANT: A COPY OF THIS FORM MUST BE ATTACHED TO A COMMITTEE PRINTED VERSION OF THE BILL OR RESOLUTION AND SHOULD BE DELIVERED TO THE ADMINISTRATION COMMITTEE OFFICE, E1.714. DEADLINES FOR SUBMITTING BILLS AND RESOLUTIONS WILL BE ANNOUNCED ON A REGULAR BASIS.**

**FAVORABLE  
SENATE COMMITTEE REPORT ON**

SB SCR SJR SR HB HCR HJR 3601  
By Hopson / Ogden  
(Author/Senate Sponsor)  
5-26-23  
(date)

We, your Committee on NATURAL RESOURCES, to which was referred the attached measure,  
have on 5-24-03, had the same under consideration and I am instructed to report it  
(date of hearing)  
back with the recommendation (s) that it:

- ☒ do pass and be printed  
☐ do pass and be ordered not printed  
☒ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☐ yes ☒ no

An actuarial analysis was requested. ☐ yes ☒ no

Considered by subcommittee. ☐ yes ☒ no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Senator Armbrister, Chair	<input checked="" type="checkbox"/>			
Senator Jackson, Vice-Chair	<input checked="" type="checkbox"/>			
Senator Barrientos	<input checked="" type="checkbox"/>			
Senator Duncan			<input checked="" type="checkbox"/>	
Senator Estes	<input checked="" type="checkbox"/>			
Senator Fraser	<input checked="" type="checkbox"/>			
Senator Hinojosa			<input checked="" type="checkbox"/>	
Senator Lindsay			<input checked="" type="checkbox"/>	
Senator Lucio			<input checked="" type="checkbox"/>	
Senator Shapiro	<input checked="" type="checkbox"/>			
Senator Staples	<input checked="" type="checkbox"/>			
TOTAL VOTES	7	0	4	0

**COMMITTEE ACTION**

S260 Considered in public hearing  
S270 Testimony taken

Holly C. Millant  
COMMITTEE CLERK

[Signature]  
CHAIRMAN

## **BILL ANALYSIS**

Senate Research Center

H.B. 3601  
By: Hopson (Ogden)  
Natural Resources  
5/26/2003  
Engrossed

### **DIGEST AND PURPOSE**

Texas faces a difficult challenge to develop water policies that serve both state and regional interests. The Texas Constitution authorizes the creation of groundwater conservation districts to plan, develop, and regulate the use of water. H.B 3601 creates the Houston County Groundwater Conservation District, subject to approval at a confirmation election, to manage Houston County's groundwater resources.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. DEFINITIONS.

SECTION 2. CREATION.

SECTION 3. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

SECTION 4. BOUNDARIES.

SECTION 5. APPLICABILITY.

SECTION 6. BOARD OF DIRECTORS.

SECTION 7. APPOINTMENT OF TEMPORARY DIRECTORS.

SECTION 8. ORGANIZATIONAL MEETING.

SECTION 9. METHOD OF ELECTING DIRECTORS: COMMISSIONERS PRECINCTS.

SECTION 10. CONFIRMATION AND INITIAL DIRECTORS' ELECTION.

SECTION 11. ELECTION OF DIRECTORS.

SECTION 12. GENERAL POWERS.

SECTION 13. LIMITATION ON TAXATION.

SECTION 14. FEES.

SECTION 15. GROUNDWATER WELLS UNDER RAILROAD COMMISSION JURISDICTION.

SECTION 16. EXEMPTION FROM FEES.

SECTION 17. LIMITATION ON INDEBTEDNESS.

SECTION 18. PROHIBITION ON DISTRICT PURCHASE, SALE, TRANSPORT, OR DISTRIBUTION OF WATER.

SECTION 19. PROHIBITION ON DISTRICT USE OF EMINENT DOMAIN POWERS.

SECTION 20. REGIONAL COOPERATION.

SECTION 21. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.

SECTION 22. EFFECTIVE DATE; EXPIRATION DATE. (a) Effective date: September 1, 2003.

(b) Provides that if the creation of the district is not confirmed at a confirmation election held under Section 10 of this Act before September 1, 2005, this Act expires on that date.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION**

**May 24, 2003**

**TO:** Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: HB3601** by Hopson (Relating to the creation, administration, powers, duties, operation, and financing of the Houston County Groundwater Conservation District.), **As Engrossed**

<b>No fiscal implication to the State is anticipated.</b>
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**Local Government Impact**

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

**Source Agencies:**

**LBB Staff:** JK, CL

H.B. No. 3601

By

ER Hopson

A BILL TO BE ENTITLED  
AN ACT

relating to the creation, administration, powers, duties, operation, and financing of the Houston County  
Groundwater Conservation District.

APR 22 2003 Filed with the Chief Clerk

APR 23 2003 Read first time and referred to Committee on Natural Resources

MAY 07 2003 Reported favorably (~~as amended~~)  
(as substituted)

MAY 12 2003 Sent to Committee on (~~Calendars~~)  
(Local & Consent Calendars)

MAY 23 2003 Read second time (comm. subst.) (~~amended~~); passed to third reading (~~failed~~) by a (non-record vote)  
(record vote of ~~yeas~~ ~~nays~~ ~~present, not voting~~)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)  
by a vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting

MAY 23 2003 Read third time (~~amended~~); finally passed (~~failed to pass~~) by a (non-record vote)  
(~~record vote of~~ ~~yeas~~ ~~nays~~ ~~present, not voting~~)

MAY 24 2003 Engrossed

MAY 24 2003 Sent to Senate

Robert Hancey  
CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

MAY 24 2003 Received from the House

MAY 24 2003 Read and referred to Committee on NATURAL RESOURCES

MAY 26 2003 Reported favorably \_\_\_\_\_

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)  
(\_\_\_\_\_ yeas, \_\_\_\_\_ nays)

Read second time, \_\_\_\_\_, and passed to third reading by (unanimous consent)  
(a viva voce vote)  
(\_\_\_\_\_ yeas, \_\_\_\_\_ nays)

Senate and Constitutional 3 Day Rules suspended by a vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays

Read third time, \_\_\_\_\_, and passed by (a viva voce vote)  
(\_\_\_\_\_ yeas, \_\_\_\_\_ nays)

Returned to the House

\_\_\_\_\_  
SECRETARY OF THE SENATE

OTHER SENATE ACTION:

\_\_\_\_\_ Returned from the Senate (as substituted)  
(with amendments)

\_\_\_\_\_ House concurred in Senate amendments by a (non-record vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

\_\_\_\_\_ House refused to concur in Senate amendments and requested the appointment of a conference committee  
by a (non-record vote) (record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

\_\_\_\_\_ House conferees appointed: \_\_\_\_\_, Chair; \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_ Senate granted House request. Senate conferees appointed: \_\_\_\_\_, Chair;  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_ Conference committee report adopted (rejected) by the House by a (non-record vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

\_\_\_\_\_ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays)

03 MAY 11 PM 12: 50  
HOUSE OF REPRESENTATIVES